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SAN FRANCISCO
PORT COMMISSION

REGULAR MEETING
4:00 P.M., TUESDAY, APRIL 9, 1996
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SAN FRANCISCO, CALIFORNIA

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AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - March 26, 1996

3. **EXECUTIVE**

   A. Executive Director's Report

4. **SPECIAL ITEM**

   A. Approval of Declaration of Support for the San Francisco Commercial and Recreational Fishermen's call for a fair and balanced Fisheries Management Program by the Pacific Fishery Management Council (Resolution No. 96-39)

5. **TENANT & MARITIME SERVICES**

   A. Authorization to issue Request for Proposals to lease Mission Rock Resort Restaurant located at 817 Terry Francois Boulevard. (Resolution No. 96-33)

   B. Approval of percentage rental adjustments for Cory Gallery, Franceschi's and Pompei's Grotto at Fisherman's Wharf; for Fog City Diner at the Embarcadero and Battery Streets; and for Sinbad's at Pier 2. (Resolution No. 96-34)

   C. Approval of agreement between the Port and Pier 39 Limited Partnership/Underwater World concerning State Coastal Conservancy Grant for improvement of public access area located at Pier 43. (Resolution No. 96-35)

   D. Approval of Port Park Code covering certain Park and Public Access areas located on Port property. (Resolution No. 96-21)

6. **FACILITIES & OPERATIONS**

7. **PLANNING & DEVELOPMENT**

8. **ADMINISTRATION**

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9. CONSENT CALENDAR

A. Approval of travel for one Port representative to attend the American Industrial Hygiene Conference and Exposition in Washington, D.C. (Resolution No. 96-36)

B. Approval of travel for one Port representative to attend the American Association of Port Authorities (AAPA) Spring Legislative Conference in Washington, D.C. (Resolution No. 96-37)

C. Approval of the Declaration of Emergency for the repair of Paceco Crane No. 1112 at Pier 80. (Resolution No. 96-38)

10. NEW BUSINESS / PUBLIC COMMENT

11. EXECUTIVE SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-Port representative.***

1) Property: Port property located at Seawall Lot 344 adjacent to Cargo Way.
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
AES Representative: Mark Woodruff

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and AES, a California corporation, regarding Cogeneration Plant. This is specifically authorized under California Government Code Section 54956.8.

2) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

3) Property: Port property located at Mission Bay, between Illinois Street and Terry Francois Boulevard.
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
Catellus Representative: Don Parker

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and Catellus Development Corporation, regarding the Port Land Transfer Agreement. This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION AND ANTICIPATED LITIGATION MATTERS

1) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

The City Attorney is of the opinion that based on existing facts and circumstances, discussion of existing and anticipated litigation matters in open session would prejudice the legal position of the Port. An executive session is specifically authorized under California Government Code Section 54956.9(c).

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. ADJOURNMENT

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary.

PORT OF SAN FRANCISCO

Ferry Building
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Writer

MEMORANDUM

April 3, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: The San Francisco fishing industry's request for a fair and balanced fisheries management program by the Pacific Fisheries Management Council.

DIRECTOR'S RECOMMENDATION: APPROVE THE DECLARATION OF SUPPORT FOR THE SAN FRANCISCO COMMERCIAL AND RECREATIONAL FISHERMEN'S CALL FOR A FAIR AND BALANCED FISHERIES MANAGEMENT PROGRAM BY THE PACIFIC FISHERY MANAGEMENT COUNCIL

The Port of San Francisco is the center of Northern California's commercial and recreational fishing industry. Last year the Port completed the $14 million renovation of the Fisherman's Wharf Commercial Fishing Center at Pier 45 that has sparked a revival of the local fishing industry. Fifteen commercial seafood companies have signed leases at Pier 45 that have resulted in new jobs and other economic benefits to the region. A Port Economic Impact Study estimates that fishing industry in San Francisco creates approximately 1,000 jobs and has an economic impact of upwards of $60 million dollars to Northern California's economy per year.

Despite a large amount of fall-run salmon in the ocean, stricter "time and area" restrictions are being considered by both the National Marine Fisheries Service and the Pacific Fishery Management Council to protect a run of endangered

THIS PRINT COVERS CALENDAR ITEM NO. 4A

Sacramento River Winter-run Chinook Salmon. Later this month the Pacific Fishery Management Council will meet to formulate regulations for managing this year's ocean salmon harvest. Their recommendations will be then sent to the U.S. Commerce Department for approval.

Representatives of the local fishing industry, while aware of the importance of protection of the Sacramento River Winter-run Chinook Salmon, are concerned that any major restrictions in their 1996 salmon season could put many companies out of business. They ask the Pacific Fishery Management Council formulate a fisheries management program that takes into account the vital economic and employment benefits that the industry has on Northern California. Representatives of the San Francisco fishing industry have asked the Port Commission to support their request for fair and balanced rules that protect both the winter-run Chinook as well as the livelihood of local fisherman and their families.

Staff asks for Commission's approval for the Declaration of Support for the San Francisco Commercial and Recreational Fishermen's call for a fair and balanced Fisheries Management Program by the Pacific Fishery Management Council.

Prepared by: Peter Dailey
Sr. Marketing Executive

CITY AND COUNTY OF SAN FRANCISCO
PORT OF SAN FRANCISCO

Resolution No. 96-39

WHEREAS, the Port of San Francisco is the center of Northern California's commercial and recreational fisheries industry: and

WHEREAS, the Port had just last year completed the $14 million dollar renovation of the Pier 45 Commercial Fishing Center at Fisherman's Wharf; and

WHEREAS, the economic impact of the local commercial and recreational fishing industry has been estimated to be upwards of $60 million dollars per annum and provides approximately 1,000 jobs; and

WHEREAS, the Port understands the importance of the protection of the Sacramento River Winter Run Salmon; and

WHEREAS, the Pacific Fisheries Management Council is meeting this month to formulate a plan to manage this year's ocean salmon harvest; and

WHEREAS, members of the local commercial and recreational fishing industry have voiced concern that significant restrictions to their season will be detrimental to their ability to make a living; therefore be it

RESOLVED, that the San Francisco Port Commission hereby supports the San Francisco commercial and recreational fishing industry's call for a fair and balanced fisheries management program that protects the Sacramento River Winter-run Chinook salmon and also protects the significant economic impact that the salmon industry generates for San Francisco and Northern California.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 9, 1996.

_____
Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

Ferry Building
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Writer

April 3, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Authorization to Issue Request for Proposals to Lease Mission Rock Resort Restaurant Located at 817 Terry Francois Blvd.

DIRECTOR'S RECOMMENDATION: AUTHORIZE STAFF TO ISSUE A REQUEST FOR PROPOSALS TO LEASE MISSION ROCK RESORT RESTAURANT.

Description of Site and Current Operation

The premises comprise approximately 8,000 square feet of land upon which is located an existing restaurant building containing approximately 4,000 sq.ft. (including outdoor decks). A site plan of the premises is attached. The existing restaurant serves breakfast, lunch and alcoholic beverages. The eating areas, which are located both indoors and outdoors on two levels, have commanding views of San Francisco Bay. Pricing for food and beverage is moderate. The current tenant operates Mission Rock Resort on a month-to-month hold-over basis.

Existing Marina

The marina will not be a component of the proposal process. The Port intends to ultimately demolish the marina due to accessibility and life safety issues. The Port anticipates constructing a new 26 slip marina for small boats when a funding source is identified and secured. In the interim, the Port will consider allowing the successful proposer to install day use only guest berths for patrons.

THIS PRINT COVERS CALENDAR ITEM NO. 5A

Goal of Request for Proposals

The goal of this Request for Proposals ("RFP") is to identify the best tenant who will:

1. Operate a successful restaurant operation under a net lease;
2. Maximize revenues to Port;
3. Commit to investment on the premises bringing the restaurant into compliance with all regulatory codes;
4. Improve the appearance and street appeal of the operation;
5. Provide an exciting new resource for the public which will optimize public enjoyment of the waterfront; and
6. Design an operation which retains the character of a San Francisco waterfront gathering place.

Business Terms for Proposed Lease

Premises:	Approximately 8,000 square feet of restaurant and land space delivered in its "as is" condition.
Term:	Fifteen years
Options:	Two (2) 5-year options at fair market value.
Effective Date:	Six business days following approval by Board of Supervisors and signature by Mayor.
Use:	Public restaurant and with optional uses to include live entertainment and not more than 400 square feet of retail space. Other uses consistent with existing regulations will be considered, but a private club will not be permitted.
Base Rent:	To be proposed - Not less than $2,000 per month
Rent Commencement:	To be proposed.
Rent Abatement:	To be proposed.
Percentage Rent:	7.0% full service dining; 9.0% casual dining; 9.0% retail
Type of Lease:	Net lease using Port's standard form lease document.

Required Improvements

The following required improvements must be completed by Tenant prior to issuance of an occupancy permit by the Port:

Building Improvements

1. Cure all code violations;
2. Replace second floor deck and stairs;
3. Replace roof, gutters and downspouts;
4. Make cosmetic improvements to exterior of building;
5. Asbestos removal from interior of building (triggered by improvements).

Rent Credits Against Minimum Rent:

Decks/Stairs:	Not to exceed $20,000
Asbestos :	Not to exceed $10,000
Code Compliance:	Not to exceed $15,000

Note: Credit will be taken against 50% of monthly minimum rent.

Other Interior/Exterior Improvements

To be proposed

Regulatory Requirements

The Tenant shall be responsible for obtaining all necessary permits at its sole cost.

Tenant shall be required to comply with the Americans with Disabilities Act and Title 24 of the California Building Code.

Selection Process

Responsiveness	Five years of verifiable restaurant experience as owner/manager in past 10 years
Elevation to Panel	Five proposals with highest combined Net Present Value (NPV) of Minimum Rent including any proposed rent abatement period plus NPV of proposed capital improvement dollars over 15 year Term
Panel Grading	Highest score based on written and oral presentations covering:
Points 1-25	1. NPV of minimum rent, with rent abatement (using a 9% rate)
1-25	2. NPV of capital improvements proposed over initial 15 year term (using a 9% rate)
1-25	3. Restaurant experience
1-25	4. Type of operation and feasibility of cash flow forecast (Business Plan)

Note: Human Rights Commission scoring adjustment (S.F. Admin. Code Chapter 12D) will be applied to certified MBE/WBE firms or joint ventures.

Lease Performance Requirements

The successful proposer will be required to invest monies as proposed and any failure to meet the amounts and timetables will result in lease termination by the Port.

Maintenance and repair requirements of the tenant, set forth in the lease, will be strictly enforced.

Affirmative Action

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code have been incorporated into the RFP which will require the tenant to implement an affirmative action plan to ensure equal employment with its operation. The Port strongly encourages small, local, women and minority owned businesses to participate in the RFP process.

The successful proposer will be required to use its good faith efforts to contract with certified MBE and WBE firms to perform both the required and tenant proposed improvements. The lease will contain an appropriate MBE and WBE participation goal for the construction of improvements included in the proposal.

Brokerage Commission

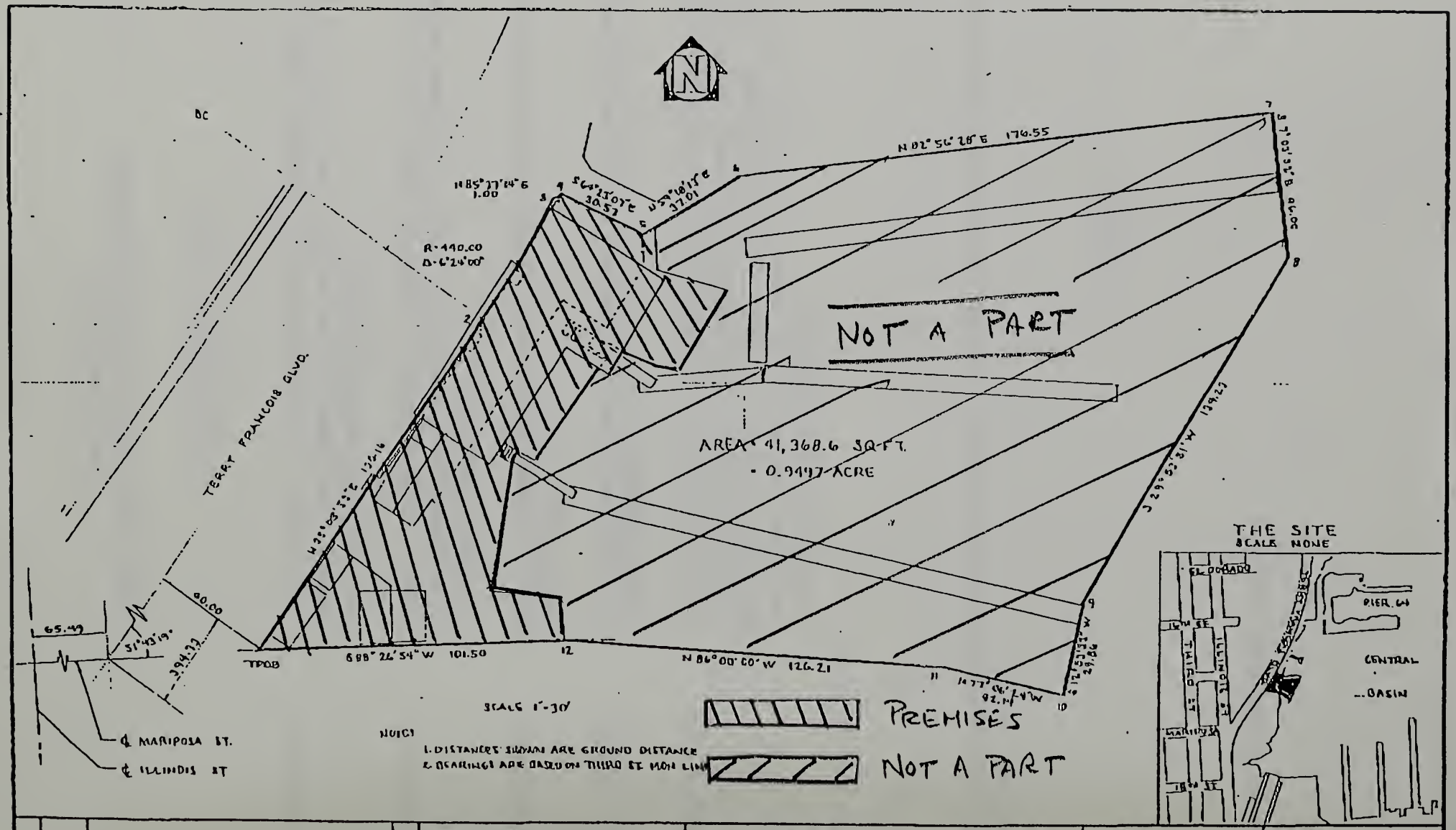
Staff proposes to offer this retail opportunity as a commissionable transaction, per previously approved rate schedule, if proposal is presented through a licensed real estate broker that properly registers the transaction with Port staff.

Projected RFP Schedule

Commission authorization to issue RFP	April 9, 1996
RFP issued	April 23, 1996
Outreach and advertising commences	April 23, 1996
Site tours	May 14-17, 1996
Pre-Proposal Conference/site tour	May 22, 1996
Deadline for submittal/proposal opening	July 18, 1996
Oral presentation of selected proposers	August 1, 1996
Commission awards lease (approximate)	August 27, 1996
Board of Supervisors approval (approximate)	September 24, 1996
Lease commences (approximate)	October 10, 1996

Prepared by: Frederick D. White, Director, Tenant & Maritime Services

EXHIBIT A



NO.	DATE	DESCRIPTION	BY

TABLE OF CHANGES
CHECK TRACING FOR LATEST REVISION

APPROVED BY
SAN FRANCISCO PORT COMMISSION
DATE _____

CHIEF HARBOR ENGINEER

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

EXHIBIT "A"
MISSION ROCK RESORT

DESIGNED BY:	CHECKED BY:
DRAWN BY: EEC	DATE: MAR '8 1994
CONTRACT NO.	SCALE: AS SHOWN
DRAWING NO.	SHEET NO.
	OF SHEETS

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-33

WHEREAS, Charter Section 3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port jurisdiction; and

WHEREAS, restaurant operations generate a significant revenue stream to the Port and the Port desires to operate its restaurant sites in an efficient manner which maximizes revenues; and

WHEREAS, there is a demand for waterfront gathering places which offer restaurant facilities; and

WHEREAS, the Mission Rock Resort has the potential to better meet this demand for a waterfront gathering place;

RESOLVED, that the San Francisco Port Commission authorizes staff to offer through a request for proposal (RFP) process a fifteen-year lease for the Mission Rock Resort Restaurant located at 817 Terry Francois Boulevard in accordance with the terms set forth in the Memorandum to the Port Commission for this Resolution.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 9, 1996.

_____
Secretary

G:\WP51\AGENDAS\MISSRFP2.MEM\FW\ats\March 26, 1996

PORT OF SAN FRANCISCO

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MEMORANDUM

April 1, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James R. Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of percentage rental adjustments for Cory Gallery, Franceschi's and Pompei's Grotto on Jefferson Street at Fisherman's Wharf, and for Sinbad's at Pier 2.

DIRECTOR'S RECOMMENDATION: APPROVE PERCENTAGE RENTAL ADJUSTMENTS SET FORTH HEREIN

BACKGROUND

The long term leases for the following four businesses provide for the payment of percentage rent to the Port, which is subject to periodic review and adjustment by the Port: Cory Gallery (subleased to Mamone Gallery), Franceschi's, Pompei's Grotto and Sinbad's. The terms and the current percentage rental rates for these leases (the "Subject Leases") are summarized on Exhibit A. All of the Subject Leases provide for review and adjustment of the percentage rental every five years during the lease term. The percentage rent for all of the Subject Leases were subject to review and adjustment during 1995, but the Port and the tenants agreed to extend the time for finalizing the amount of this adjustment, with the adjustment to be made retroactively.

THIS PRINT COVERS ITEM NO. 5B

Except for Cory (Mamone) Gallery, the Subject Leases all set forth three categories for percentage rental: (1) "Food," (2) "Alcoholic beverages and all other items sold through the bar," and (3) "All other uses." The current uses for these three leases consist of full service restaurant uses, which in the case of Franceschi's and Pompei's Grotto include outdoor crab stands. Franceschi's also includes retail uses. The uses for Cory Gallery are the display and sale of art objects, and all sales are included in a single percentage rental category.

Each of the Subject Leases establishes a similar procedure for the review and adjustment of the rate of percentage rental. If the rates of percentage rental for like uses in San Francisco in the vicinity of the leased premises have increased or decreased as of the adjustment date, then the Port shall adjust the rates of percentage rental for the Subject Leases accordingly. If the tenant disagrees on the amount of the adjustment, then the tenant has the right to terminate the lease without liability for future rent.

In order to determine the rate of percentage rental for like uses in the vicinity of the leased premises for the Subject Leases, the Port hired a consultant to perform a survey and analysis of the rates of percentage rent charged for like uses in the vicinity of the leased premises and to make recommendations regarding the appropriate adjustment in the percentage rental rates for the Subject Leases. Port staff also held discussions with the tenants for the Subject Leases, and considered their comments regarding the appropriate adjustment.

STAFF RECOMMENDATION

Based upon the independent survey and analysis obtained from the Port's consultant, the input provided by the tenants, and Port staff's own consideration and review of the data available to it, Port staff recommends percentage rental rates adjustments for each of the Subject Leases. including the effective dates, as indicated on the attached Exhibit B.

Prepared by: Frederick D. White
Director, Tenant and Maritime Services

EXHIBIT A
SUBJECT LEASES
LEASE TERM AND CURRENT PERCENTAGE RENTAL RATES

Port Lease No.	Business Name (Address)	Lease Term		Current Percentage Rates			
		Commencement Date	Expiration Date	Food	Beverages*	Other Uses**	All Uses
L-8984	Cory Gallery (360 Jefferson Street)	5/1/75	4/30/2005				8.0%
L-8993	Franceschi's (498 Jefferson Street)	5/1/75	4/30/2036	5.0%	7.0%	7.0%	
L-8986	Pompei's Grotto (340 Jefferson Street)	4/1/75	4/20/2036	5.0%	7.0%	10.0%	
L-10432	Sinbad's (Pier 2)	10/1/80	9/30/2000	6.75%	6.75%	6.75%	

* "Alcoholic beverages and all other items sold through the bar."

** "All other uses."

EXHIBIT B
SUBJECT LEASES
PROPOSED PERCENTAGE RENTAL RATES

Port Lease No.	Business Name	Effective Date	Food	Alcoholic Beverages*	All Other Uses	All Uses
L-8984	Cory (Mamone) Gallery	5/1/95				8.75%
L-8993	Franceschi's	5/1/95	6.75%	6.75%	8.75%	
L-8986	Pompei's Grotto	4/1/95	6.75%	6.75%	8.75%	
L-10432	Sinbad's	10/1/95	6.5%	6.5%	8.5%	

* "Alcoholic beverages and all other items sold through the bar."

I:\%RENT6RV.MEM\KB:ibn\March 29, 1996

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-34

WHEREAS, Charter Section 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under Charter Section 3.581(g) leases and franchises granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, certain Port leases identified in Exhibit A attached to the Memorandum regarding Agenda Item 5B for the April 9, 1996 Port Commission meeting ("Memorandum") provide for adjustment in the percentage rents based on the determination that the percentage rents for like uses in San Francisco in the vicinity of the leased premises have increased or decreased as of the date of the determination; and now therefore be it

RESOLVED, that the Port Commission determines that the rates of percentage rent for full service restaurant and retails uses in San Francisco in the vicinity of the leased premises for the leases identified in Exhibit B attached to the Memorandum have increased to the rates indicated in Exhibit B; and be it further

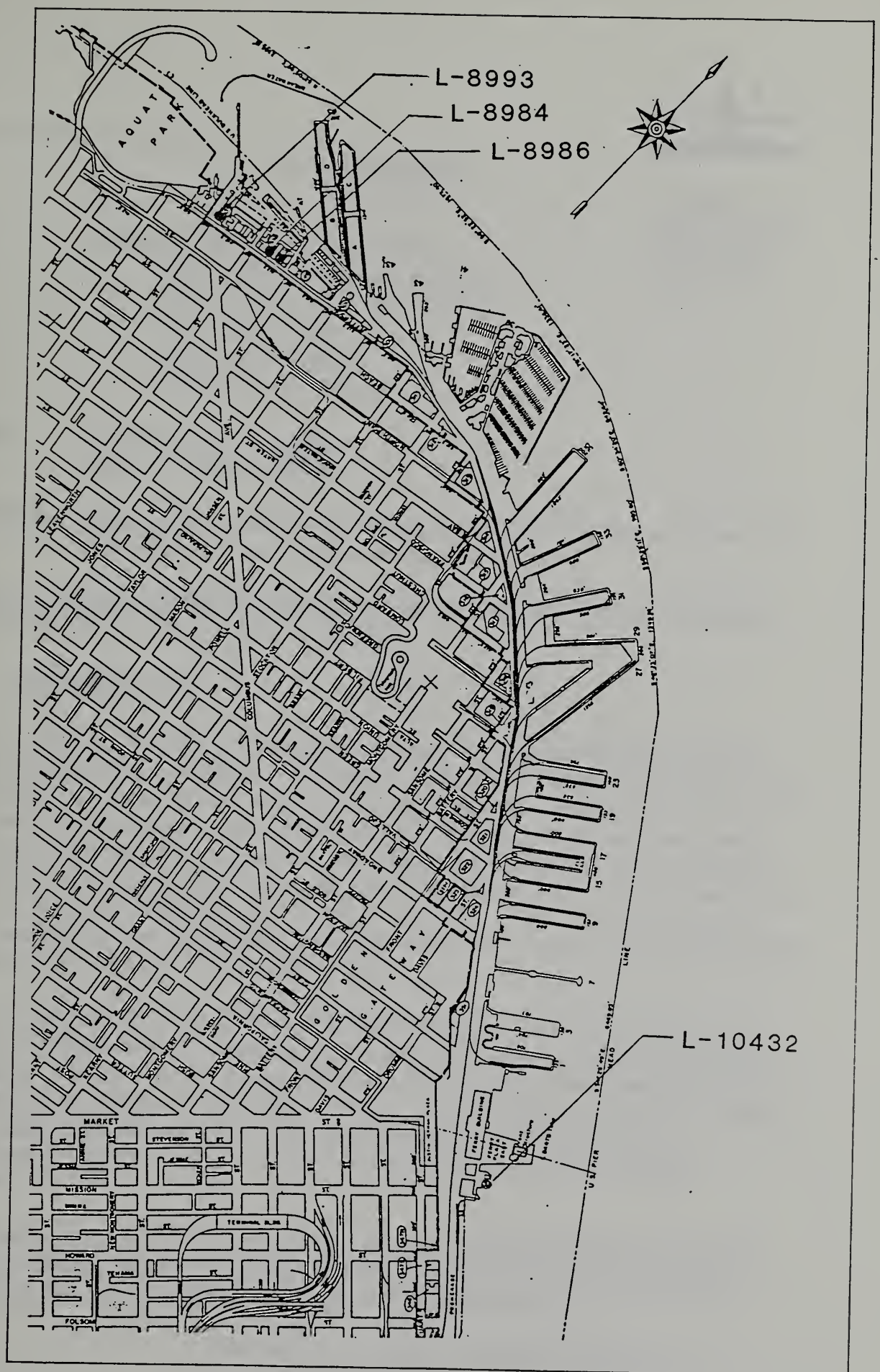
RESOLVED, that the percentage rents for said leases shall be adjusted as indicated in Exhibit B; and be it further

RESOLVED, that the Executive Director or his designee is hereby authorized to execute all such appropriate documentation as needed to implement this Resolution.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 9, 1996.

_____
Secretary

G:\WP51\AGENDAS\%RENT5.MEM\KB:ibn\March 29, 1996


L-8993
L-8984
L-8986
L-10432
AQUATIC PARK
MARKET
MISSION
HOWARD
FOLSOM

PORT OF SAN FRANCISCO

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Writer

MEMORANDUM
April 1, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Francis J. O'Neill

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Agreement Concerning State Coastal Conservancy Grant, for improvement of public access area located at Pier 43

DIRECTOR'S RECOMMENDATION: APPROVE AGREEMENT CONCERNING STATE COASTAL CONSERVANCY GRANT

I. BACKGROUND

Port and Pier 39 L.P. ("Pier 39") entered into a lease for premises located at Pier 39, City and County of San Francisco ("Premises"). The Lease is described as follows: North Point Center, Inc. Lease dated August 3, 1977; Amendment to Lease dated October 31, 1979; Second Amendment to Lease dated February 28, 1980; Agreement dated January 14, 1983; Resolution 85-60 of Landlord; letter dated August 22, 1988 from Landlord to Pier 39 relating to certain rent credits; and Third Amendment of Lease, dated October 25, 1990 (the preceding documents, collectively, the "Lease"). The Third Amendment to Lease authorized use of the Premises for an Aquarium to be owned, operated and managed by Pier 39 L.P.'s subtenant, Underwater World.

Pier 39 L.P.'s BCDC permit 22-76 as subsequently amended permits the aquarium use, subject to certain conditions, including removing the finger pier at Pier 43 and improving the balance of the pier surface for public access. This project involves demolition of the existing pier, installation of new pilings, framing, decking railing and lighting, in addition to new support and shoring for the railroad ferry arch at a cost estimated to be approximately One Million Three Hundred Thousand Dollars ($1,300,000) (the "Project").

Under Section IV.B of the Third Amendment to Lease, Port granted to Pier 39 a non-possessory and non-exclusive right to enter the Pier 43 apron for the sole purpose of constructing and maintaining the BCDC required public access area.

THIS PRINT COVERS CALENDAR ITEM NO. 5C

Pier 39 has taken the position that the Port is responsible for the repair or replacement of the substructure at Pier 43. The Port disputes this obligation . To resolve the dispute, the Port, with the assistance of Pier 39/Underwater World, applied for and accepted grant funding for the project, pursuant to a grant agreement dated June 28, 1995 ("Grant"), from the California State Coastal Conservancy ("Conservancy"). The Port Commission approved the Grant in its Resolution No. 95-22. Under the Grant, the Conservancy granted to the Port Six Hundred Fifty Thousand Dollars ($650,000) to be used to complete the Project. The Grant anticipated that the Project would be undertaken by Pier 39/Underwater World ("Project Developer") pursuant to a separate agreement with Port, delegating Port's performance obligations under the Grant to Project Developer.

The Executive Director and Project Developer have negotiated an agreement to delegate the Port's responsibilities under the Grant to Project Developer, in the form attached hereto as Agreement Concerning State Coastal Conservancy Grant. The following is a summary of the relevant terms of the Agreement:

Project Developer's Obligations: Project Developer agrees to construct the Project at its sole cost and expense, and assumes all of the obligations of Port under the Grant.

Port's Obligations: Port agrees to forward to Conservancy any documents or forms or requests for approvals or payments required under the Grant as submitted by Project Developer, subject only to Port's rights pursuant to the Lease and its regulatory authority over construction on Port property, including approvals of plans and issuance of permits. Port agrees to promptly pay Project Developer all Grant monies received by Port from Conservancy.

Port Supply of Piling: Port agrees to sell to Project Developer up to 125 treated wood piles, for Three Hundred Twenty Dollars ($320.00) per pile.

Historic Structures: The arch structure at the end of the Pier 43 Apron and the railroad ferry ramp within the Pier 43 Apron (collectively, "Historic Structures") are aged, deteriorated, and do not meet current codes. Although the Project will provide additional support and shoring for these structures, the project does not include any attempt to bring them up to standards set forth in current codes. Under the Agreement, Port agrees that neither Project Developer, nor its contractors, shall be responsible or liable for any further work of repair reconstruction or maintenance of the Historic Structures or for any failure, collapse, overturning or distortion from any cause other than Project Developer's or its agents' or contractors' negligence.

Indemnity: Under the Lease, Pier 39 fully indemnifies Port for any losses incurred arising out of its construction, use or maintenance of the public access area. Under the Agreement, this indemnity is extended to indemnify the Port for any non-compliance with the Grant.

Prepared by: Neil H. Sekhri, Assistant Port General Counsel

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-35

WHEREAS, Charter Section 3.581 empowers the Port Commission with power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under Charter Section 3.581(g) leases granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, Port and Pier 39 L.P. ("Pier 39") entered into a lease ("Lease") for premises located at Pier 39, City and County of San Francisco ("Premises"). The Lease is described as follows: North Point Center, Inc. Lease dated August 3, 1977; Amendment to Lease dated October 31, 1979; Second Amendment to Lease dated February 28, 1980; Agreement dated January 14, 1983; Resolution 85-60 of Landlord; letter dated August 22, 1988 from Landlord to Pier 39 relating to certain rent credits; and Third Amendment of Lease, dated October 25, 1990 (the preceding documents, collectively, the "Lease").

WHEREAS, under the Third Amendment to Lease, Port consented to the use of a portion of the Premises for an aquarium. The aquarium is being constructed and operated by Underwater World Limited Partnership ("Underwater World").

WHEREAS, Under the BCDC permit allowing the construction of the Aquarium by Underwater World, Pier 39 has the obligation to provide certain public access improvements. In the Lease, Port has granted to Pier 39 a non-possessory and non-exclusive right to enter the Pier 43 apron for the sole purpose of constructing and maintaining such required public access.

WHEREAS, Pursuant to Port Commission Resolution No. 95-22, Port, with the assistance of Pier 39/Underwater World, has applied for and accepted grant funding in the amount of Six Hundred Fifty Thousand Dollars ($650,000.00) for the construction of the public access project at Pier 43, pursuant to a grant agreement dated June 28, 1995 ("Grant"), from the California State Coastal Conservancy ("Conservancy"). The public access improvements include demolition of the existing pier, installation of new pilings, framing,

decking, railing and lighting, new support and shoring for the railroad ferry arch. The Grant anticipated that the project would be undertaken by Pier 39/Underwater World ("Project Developer") pursuant to a separate agreement with Port, delegating Port's performance obligations under the Grant to Project Developer; and

WHEREAS, the Executive Director has negotiated an Agreement, the terms of which are described in Memorandum of Agenda Item 3C for the Port Commission Meeting on May 23, 1995, whereby Project Developer assumes all of the Port's obligations under the Grant, and agrees to be solely responsible for the full cost of the public access improvements at Pier 43 to the extent not covered by the Grant; now, therefore, be it

RESOLVED that the Port Commission hereby approves the Agreement concerning State Coastal Conservancy Grant, for the improvement of public access area located at Pier 43, the terms of which are set forth in the Memorandum of Agenda Item 5C for the Port Commission Meeting on April 9, 1996, in such form as approved by the City Attorney, and that the Executive Director is hereby authorized to execute the same.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 9, 1996

_____
Secretary

g:\wp61\nhs\pier39\agenda

AGREEMENT CONCERNING STATE COASTAL CONSERVANCY GRANT

This **Agreement Concerning State Coastal Conservancy Grant** ("Agreement") is entered into as of this ____ day of _____, 1996, by and between the City and County of San Francisco ("City"), by and through the San Francisco Port Commission ("Port"), and Pier 39 Limited Partnership, a California limited partnership ("Pier 39") and Underwater World at Pier 39 Limited Partnership, a California limited partnership ("Project Developer"). This Agreement is made upon the following facts, intentions and understandings of the parties hereto:

A. Port and Pier 39 are parties to a certain lease for premises located at Pier 39, City and County of San Francisco ("Premises"). The Lease is described as follows: North Point Center, Inc. Lease dated August 3, 1977 ("Master Lease"), Amendment to Lease dated October 31, 1979; Second Amendment to Lease dated February 28, 1980; Agreement dated January 14, 1983; Resolution 85-60 of Port; letter dated August 22, 1988, from Port to Tenant relating to certain rent credits; a letter dated April 8, 1985, from Port to Tenant; and Third Amendment of Lease (the "Third Amendment"), dated October 25, 1990 (the preceding documents, collectively, the "Lease"). The Premises are more particularly described in the Lease. All capitalized terms set forth hereafter which are not defined herein shall have the same meaning given such terms in the Third Amendment.

B. The Third Amendment authorized use of the Premises for an Aquarium to be owned, operated and managed by Project Developer.

C. The BCDC Aquarium Permit, as subsequently amended, permits the Aquarium, subject to certain conditions, including removal of not less than 25,000 square feet of Pier 43 and improvement of the balance of the pier surface to create the Public Access Area. Exhibit A attached hereto describes the Public Access Area contemplated by the Grant (as hereafter defined). The Public Access Area shall be as defined in the Third Amendment and as finally approved by BCDC.

D. Under Section IV.B of the Third Amendment, Port granted to Tenant a non-possessory and non-exclusive right to enter the Pier 43 Apron for the sole purpose of constructing and maintaining the required Public Access Area and uses and improvements thereon as set forth in and subject to certain conditions set forth in the Third Amendment and the BCDC Aquarium Permit.

E. The Project Developer commissioned engineering studies for purposes of fulfilling its obligation under the BCDC Aquarium Permit with respect to the Public Access Area. Those studies demonstrated that the substructure of the Pier 43 Apron was so deteriorated as to require substantial repair or replacement before any access could occur.

F. The Project Developer takes the position that the Port is responsible for the repair or replacement of the substructure pursuant to Section IV. B. 4 of the Third Amendment of Lease. The Port disputes any obligation to repair or replace the substructure at the Pier 43 Apron and in any event has no funds available for the Project.

G. In order to resolve the dispute, the Port, with the assistance of Project Developer, has applied for and accepted grant funding for the Project, pursuant to a grant agreement dated June 28, 1995 attached hereto as Exhibit B ("Grant") with the California State Coastal Conservancy ("Conservancy"). The Grant provides partial funding for demolition of the existing pier, installation of new pilings, framing, decking, railing and lighting, new support and shoring for the railroad ferry arch and other improvements for the Public Access Area (the "Project") at a cost estimated to be approximately One Million Three Hundred Thousand Dollars ($1,300,000) as fully described in the Grant. Under the Grant, the Conservancy granted to the Port Six Hundred Fifty Thousand Dollars ($650,000) to be used for the Project, subject to various conditions set forth in the Grant. The Grant anticipates that the Project will be undertaken by Project Developer pursuant to a separate agreement with Port, delegating Port's performance obligations under the Grant to Project Developer and with Project Developer providing the balance of funds required for the Project.

H. Port, Pier 39 and Project Developer now desire to set forth the terms and conditions upon which Project Developer will assume Port's obligations under the Grant and Port will obtain from Conservancy and pay to Project Developer monies due to Port pursuant to the Grant for the Project.

In consideration of the foregoing Recitals, the parties hereto agree as follows:

AGREEMENT

1. **Incorporation of Recitals.** The parties hereto enter into this Agreement in consideration of the foregoing recitals, which the parties hereto acknowledge to be true.

2. **Construction of Improvements and Use of Public Access Area.** Project Developer shall construct the Project at its sole cost and expense and upon all of the terms and conditions of this Agreement and Section IV.B of the Third Amendment of Lease. Pier 39's and Project Developer's use of the Public Access Area shall be subject to the Lease, the Grant and the BCDC Aquarium Permit.

3. **Project Developer's Assumption of Obligations.** Project Developer hereby agrees that it shall assume and perform all of the obligations and covenants of the grantee under the Grant, which is incorporated herein by reference thereto, as if (1) all references made to "grantee" referred to "Project Developer" in the sections of the Grant entitled "Conditions Precedent to Construction and Disbursement" and "Standard Provisions"; (2) as if all references made to "Conservancy" and "Executive Officer" referred to "Port" and "Port Executive Director" respectively, in the sections of the Grant entitled "Conditions Precedent to Construction and Disbursement", "Signs", "Work Program", "Costs and Disbursements", "Expenditure of Funds and Allocation of Funding Among Budget Items", "Project Completion", "Early Termination and Failure to Perform" and "Audits/Accounting/Records", and (3) as if all references made to "Conservancy" referred to "Conservancy and Port" in the sections of the Grant entitled "Bonding", "Liability", and "Loss Insurance". In addition, the insurance required of Project Developer under the section entitled "Liability" shall name as additional

insureds "the City and County of San Francisco and the San Francisco Port Commission and their officers, directors, employees and agents." Provided, however, that notwithstanding anything to the contrary herein, (1) the foregoing provision shall not modify the division of responsibilities set forth in paragraph IV.B.4 of the Third Amendment, and (2) in consideration of Project Developer's assumption of Port's responsibilities as Grantee under the Grant, where Project Developer seeks any approval by Conservancy, amendment of the Grant, waiver of requirements or disbursement of funds, subject only to Port's rights pursuant to the Third Amendment and its regulatory authority over construction on Port property, including approvals of plans and issuance of permits, Port and Port Executive Director shall promptly forward to Conservancy such documents or forms or requests for approvals as shall be required or furnished under the Grant as submitted by Project Developer so that the Conservancy may act on them.

4. **Port Request for and Receipt of Grant Funds**. Upon receipt from Project Developer of the Request for Disbursement forms with accompanying documentation set forth as required on page 5 of the Grant, Port shall, without independent review, transmit such requests on behalf of Project Developer to Conservancy for approval within five (5) days of receipt of same from Project Developer along with any requests for payment which Conservancy requires to be made by Port.

5. **Port Disbursement of Grant Funds.** Port shall promptly pay over to Project Developer all Grant monies received by Port from Conservancy as soon as practicable after receipt of same from Conservancy. Project Developer understands and acknowledges that payments by Port to Project Develper must be processed by the

City's Controller. In no event shall Port have any liability for any costs incurred by Project Developer which are not funded by payments received by Port from Conservancy. Provided, however, that Port hereby obligates itself to demand payment by the Conservancy of all Requests for Disbursement submitted by Project Developer, up to the limits of the Grant, in a timely manner, and to pursue on behalf of Project Developer, at Project Developer's sole cost and expense, all contractual remedies available to Port in the event that Conservancy fails to make payment to Port of the amounts due under the Grant, including without limitation the use of all available legal remedies for breach of contract.

6. **Port Supply of Piling.** Port agrees to furnish from its existing supply up to 125 treated wood piles for the Project, each of which shall be 65 feet in length and have a 12-14" butt, for which Project Developer agrees to pay Port the sum of $320 per pile, payment to be made within ten (10) days of taking delivery, all piles to be delivered to Project Developer or its agent at Port's storage facility.

7. **Indemnity and Exculpation.**

7.1 **Grant Compliance.** The indemnification of Port by Pier 39 contained in the Third Amendment shall extend to any non-compliance with the terms of the Grant, as the same may be amended from time to time.

7.2 **Historic Structures.** All the parties hereto hereby acknowledge and agree that the high arch structure at the end of the Pier 43 Apron (the "Arch") and the railroad ferry ramp (the "Ramp") within the Pier 43 Apron are aged, deteriorated and of a form and type of construction that would not meet the requirements of current

codes. The Arch and the Ramp are referred to collectively as the "Historic Structures." The Historic Structures are being preserved for the benefit of the public and in conformity with the goals and objectives of the San Francisco Master Plan, the permit issued by the Bay Conservation and Development Commission which includes the Project, and the objectives of the Grant. The Project includes the provision of additional and/or new support and shoring for the Historic Structures for the purpose of extending their useful lives, increasing their stability and increasing protection for public health and safety. However, all parties agree that the Project does not include any attempt to bring the Historic Structures up to the standards set forth in current codes and that the Historic Structures may remain vulnerable to failure, collapse, overturning, distortion or movement (collectively, "Failure") in the event of damage suffered by reason of a seismic event or other natural occurrence, accidental collision by a ship or other vehicle, the mere passage of time and incidental deterioration associated therewith or any other event or cause (collectively, "Cause"). Therefore, in consideration of Project Developer's willingness to undertake the Project in a manner which includes the Historic Structures, Port hereby agrees that neither Pier 39 nor Project Developer nor the agents, representatives and contractors of Project Developer for the Project shall be responsible or liable for any further work of repair, reconstruction or maintenance with respect to the Historic Structures or for any Failure of the Historic Structures for any Cause and Port hereby forever releases and discharges Project Developer and Pier 39, their respective partners, employees, agents, contractors, representatives, successors and assigns, from any and all claims, demands, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses (including attorney's fees and costs) whatsoever, and legal and administra-

tive proceedings (collectively, "Claims"), whether direct or indirect, foreseen or unforeseen, that may arise or be connected with the condition of the Historic Structures or the Failure of the same for any Cause, except to the extent any such Claims result from personal injuries or property damage occurring during completion of the Project due to the negligence or wilful misconduct of Project Developer, its partners, employees, agents, representatives or contractors in carrying out the Project.

8. **Term of Agreement.** The term of this Agreement shall be concurrent with the term of the Grant, except for Project Developer's indemnity obligations incurred during the term, which shall survive termination of the Agreement.

9. **Entire Agreement.** This Agreement contains all of the representations and the entire agreement between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to such subject matter are superseded in total by this Agreement. No prior drafts of this Agreement or changes from those drafts to the executed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this Agreement.

10. **Amendments.** No amendment of this Agreement or any part thereof shall be valid unless it is in writing and signed by all of the parties; hereto.

11. **Severability.** Except as is otherwise specifically provided for in this Agreement, invalidation of any provision of this Agreement, or of its application to any person, by judgment or court order, shall not affect any other provision of this

Agreement or its application to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purposes of this Agreement.

12. No Party Drafter: Captions. The provisions of this Agreement shall be construed as a whole according to their common meaning and not strictly for or against any party in order to achieve the objectives and purposes of the parties. Any caption preceding the text of any section, paragraph or subsection or in the table of contents is included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement

13. Singular, Plural, Gender. Whenever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, and vice versa.

14. Successors. The terms, covenants, agreements and conditions set forth in this Agreement shall bind and inure to the benefit of Port and Project Developer and, except as otherwise provided herein, their personal representatives and successors and assigns.

15. Counterparts. For convenience, the signatures of the parties to this Agreement may be executed and acknowledged on separate pages which, when attached to this Agreement, shall constitute this as one complete Agreement. This Agreement may be executed in any number of counterparts each of which shall be

deemed to be an original and all of which shall constitute one and the same Agreement.

16. Waiver. No failure by either party to insist upon the strict performance of any obligation of the other under this Agreement or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of full or partial payment during the defaulting party's continuance of any such breach shall constitute a waiver of such breach or of the party's rights to demand strict compliance with such term, covenant or condition. No consent to or approval of any act by either party requiring the other's consent or approval shall be deemed to waive or render unnecessary any consent to or approval of any subsequent act by the party. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

17. Litigation Expenses: Attorneys' Fees.

17.1 Litigation Expenses. If either party hereto brings an action or proceeding (including any cross-complaint or counterclaim) against the other party by reason of a default, or otherwise arising out of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover from the other party its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "Prevailing party" within the meaning of this Section 16.1 shall include, without limitation, a party who substantially obtains or defeats, as the case may be, the relief sought in the action,

whether by compromise, settlement, judgment or the abandonment by the other party of its claim or defense.

17.2 Appeals. Attorneys' fees under this Section 16 shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal.

17.3 City Attorney. For purposes of this Agreement, reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the actual costs incurred by the City based on the hours worked by those attorneys involved and the apportioned labor, material, fringe benefit and other costs involved in maintaining the Office of the City Attorney.

18. Project Developer's and Port's Obligations Under Third Amendment. Nothing in this Agreement shall affect or alter in any way Pier 39's or Port's obligations under the Lease, including, without limitation, Pier 39's or Port's obligations with respect to the Public Access Area.

19. City Requirements.

19.1 Non-Discrimination. Project Developer shall not, in the performance of its obligations hereunder, discriminate against any person or group of persons solely because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability or acquired immune deficiency syndrome (AIDS) or AIDS related condition (ARC). The provisions of Chapters 12B and 12C of the San Francisco Administrative Code, relating to nondiscrimination by parties contracting with the City and County of San Francisco, are incorporated herein by this reference and made a

part hereof as though fully set forth herein. Project Developer agrees to comply with all provisions of such Chapters 12B and 12C that apply to users of real property of the City and County of San Francisco.

19.2 MacBride Principles—Northern Ireland. City urges companies doing business in Northern Ireland to move towards resolving employment inequities and encourages such companies to abide by the MacBride Principles. City urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

19.3 Tropical Hardwood Ban. City urges Project Developer not to import, purchase, obtain, or use for any purpose, any tropical hardwood or tropical hardwood product.

19.4 Tobacco Products Advertising Ban. Project Developer acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the City, including the property which is the subject of this Agreement. This prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event. or product. This prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

20. Public Information Kiosk. To the extent that Project Developer has discretion regarding content of materials to be displayed on or in the public information kiosk required under the Scope of Work, Project Developer shall request Port's prior written approval prior to placing materials on or in the kiosk.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the respective dates set forth.

"PROJECT DEVELOPER"

Pier 39 Limited Partnership, a California Limited Partnership

By:
Its: General Partner

Underwater World at Pier 39, a Limited Partnership

By: Questar of New Zealand, Inc., Managing General Partner

By: ERIK Ø. PEDERSEN
Its: President

"PORT"

City and County of San Francisco, by and through the San Francisco Port Commission

By: FREDERICK D. WHITE
Its: Director, Tenant and Maritime Services

APPROVED AS TO FORM:

LOUISE H. RENNE
City Attorney

By: NEIL H. SEHKRI
Deputy City Attorney

PORT OF SAN FRANCISCO

MEMORANDUM

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Cable SFPORTCOMM
Writer

April 1, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Francis J. O'Neill

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Port Park Code Covering Certain Park and Public Access Areas Located on Port Property

DIRECTOR'S RECOMMENDATION: APPROVE PARK CODE

On December 2, 1995, the Redevelopment Agency opened the first phase of the Park in the Rincon Point/South Beach Project Area which is on land the Agency leases from the Port of San Francisco for a term of up to 55 years. The Agency has important interests in regulating activities in the Park to protect visitors from safety hazards, prevent damage to the property and facilitate special event coordination. As a result, the Agency has determined that there is a need to impose reasonable time, place and manner restrictions upon activities of the general public in South Beach Park.

Because the Redevelopment Agency does not possess police powers to enforce such restrictions, the Agency has requested the Port to adopt a Port Park Code ("Park Code"), based on relevant provisions of the City's Park Code, and extend the provisions of the Port Park Code over the South Beach Park area. The Agency has also requested the Port to authorize the Agency to issue permits and adopt rules governing South Beach Park for the duration of the Agency's lease with the Port for South Beach Park.

Under the Burton Act and Charter Section 3.581, the Port has the complete authority to manage, regulate and control the harbor of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of the Port property. For example, pursuant to this authority, the Port has adopted its own Harbor Traffic Code. Although the Redevelopment Agency has requested the Port to adopt a Park Code, Port staff believe that it is also in the

Port's best interests to set forth a code regulating activities on Port property open to public access. Consequently, Port staff has prepared a Park Code for your consideration, a copy of which is attached to the attached Resolution.

The proposed Park Code has been adapted directly from the City's Park Code which covers City property under the jurisdiction of the Department of Parks and Recreation. The proposed Park Code will cover South Beach Park, and other areas of Port property designated for public access, including, but not limited to, Pier 7, Ferry Plaza, the Port Embarcadero Promenade, Pier 43, Pier 43 1/2, Fisherman's Wharf Lagoon, Pier 47A, and Warm Water Cove. The maps attached as Exhibit A to the Park Code show the Port property subject to the Park Code.

The Park Code addresses the following items: (1) regulations governing conduct; (2) prohibitions on disorderly conduct; (3) regulations regarding animals; (4) regulations regarding traffic; (5) procedures regarding permits for activities conducted on park property; and (6) penalties, including misdemeanor and infraction penalties, for violations of the Park Code. The Park Code authorizes peace officers and delegated Port employees to carry out provisions of the Park Code.

In order to address the Redevelopment Agency's concerns, the proposed resolution adopting the Park Code delegates authority to the Redevelopment Agency Commission to set rules and issue permits for South Beach Park, and to designate persons who shall perform all other functions for South Beach Park which would be performed by the Port's Executive Director for any other Port property covered by the Park Code for so long as the Agency retains control of South Beach Park under its lease with the Port. The Redevelopment Agency has submitted to the Port their proposed rules for South Beach Park for approval. The Agency's rules are substantially the same as the Port Rules and Regulations attached hereto as Exhibit 1, except that the Agency is in charge of issuing permits and administering the regulations for South Beach Park. The Agency has agreed not to adopt any new rules or changes to existing rules without agreement thereto by the Port Commission, or its designee.

Article 6 of the Park Code provides that the Port Commission will adopt by resolution procedures for the filing and processing of permit applications. Port staff developed such procedures, which are attached hereto as Exhibit 1.

Because the Park Code provides for misdemeanor penalties and fines for infractions, authorizing legislation by the Board of Supervisors will be necessary to implement the Park Code.

Prepared by: Neil H. Sekhri, Assistant Port General Counsel

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-21

WHEREAS, Charter Section 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, the Port Commission desires to adopt a Park Code in substantially the form attached hereto, setting forth rules and regulations governing conduct within public access areas of Port property; and

WHEREAS, the Redevelopment Agency has requested that the Port Park Code be extended to cover South Beach Park, and that the Port Commission authorize the Agency to adopt rules and issue permits for South Beach Park for the term of its lease therefor; and

WHEREAS, Board of Supervisors approval is necessary to authorize enforcement of the Park Code pursuant to the City's police powers; now, therefore, be it

RESOLVED, that the Port Commission hereby approves the Park Code in substantially the form attached hereto; and be it further

RESOLVED, that the Port Commission hereby approves the Rules and Regulations in substantially the form attached hereto, implementing Sections 2 and 6 of the Park Code, and hereby authorizes the Executive Director to make such amendments thereto as may be necessary from time to time to assist in the efficient administration of Port park property; and be it further

RESOLVED, that, for so long as the San Francisco Redevelopment Agency retains control of South Beach Park under its lease with the Port Commission, the governing body of the Redevelopment Agency is hereby authorized to set rules for South Beach Park (subject to the prior approval of the Port's Executive Director), and to

issue permits therefor, and to designate persons who shall perform all other functions for South Beach Park which would be performed by the Port's Executive Director for any other Port property covered by the Park Code; and be it further

RESOLVED, that the staff of the San Francisco Port Commission is hereby directed to take all steps necessary and proper to carry out this resolution, provided however, that implementation of this resolution shall be conditioned upon passage of complimentary legislation by the Board of Supervisors.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 9, 1996.

_____
Secretary

SAN FRANCISCO PORT COMMISSION
PARK CODE

PREAMBLE

Under the Burton Act and Charter Section 3.581, the San Francisco Port Commission has the complete and exclusive authority to manage, regulate and control the harbor of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of the Port property. The Port has important interests in regulating activities on public access areas of Port property to protect visitors from safety hazards, prevent damage to the property and facilitate special event coordination. As a result, the Port has determined that there is a need to impose reasonable time, place and manner restrictions upon activities of the general public on the Port's public access areas. In keeping with its duties of administering the public trust, this Park Code is not intended to restrict the rights of the public to enjoy the waters of San Francisco Bay to the full extent those rights are granted under the public trust doctrine.

Article 1. Definitions.

Sec. 1 "Park" Defined.
Sec. 2 "Commission" Defined.
Sec. 3 "Executive Director" Defined.
Sec. 4 "Person" Defined.
Sec. 5 "Sign" Defined.
Sec. 6 "Vehicle" Defined.
Sec. 7 "Park Patrol" Defined.

1. 1. **"Park" Defined**. When used in this code, the word "park" shall mean and include those certain grounds, roadways, avenues, squares, recreation facilities, and other property identified in Appendix A hereto, which is under the jurisdiction of the San Francisco Port Commission. Any park abutting the waters of San Francisco Bay shall not be deemed to include the waters of San Francisco Bay.

1. 2. **"Commission" Defined**. When used in this Code, the word "Commission" refers to the San Francisco Port Commission of the City and County of San Francisco.

1. 3. **"Executive Director" Defined**. When used in this Code, the words "Executive Director" refer to the Executive Director appointed by the Commission pursuant to Charter Section 3.581 or to a person designated by the Executive Director to act on his or her behalf.

1. 4. **"Person" Defined**. The word "person" when used in this Code shall mean and include any person, association, partnership, firm or corporation.

1. 5. **"Sign" Defined**. The word "sign" when used in this Code shall mean any literal, pictorial or symbolic representation, including, but not limited to, a written, printed, photocopied or painted message on any paper, cardboard, wood, metal, cloth, or other flat surface.

1. 6. **"Vehicle" Defined**. When used in this Code, the word "vehicle" shall mean any device, in, upon, or by which a person or property is or may be propelled, moved or drawn upon a highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks, and shall include, but not be limited to, the following: automobile, truck, motorcycle, motor-driven cycle, animal-drawn carriage, buckboard, cart, and minibike or bicycle when operated under engine power.

1. 7. **"Park Patrol" Defined.** When used in this Code, the words "Park Patrol" refer to persons hired as employees or contractors of the Commission or City and County of San Francisco to patrol the areas under the jurisdiction of the Commission.

Article 2. Regulations

Sec. 2.1 Rules of Port Commission to Be Obeyed.
Sec. 2.2 Signs to Be Obeyed.
Sec. 2.3 Public May Be Excluded.
Sec. 2.4 Athletic Activities Prohibited in Certain Areas.
Sec. 2.5 Restrictions on Posting of Signs
Sec. 2.6 Personal Services.
Sec. 2.7 Airplanes, Helicopters, Hot Air Balloons, Etc., Prohibited.
Sec. 2.8 Peddling and Vending Merchandise or Printed Material.
Sec. 2.9 Camping Prohibited.
Sec. 2.10 Sleeping Prohibited During Certain Hours.
Sec. 2.11 Performance of Labor.
Sec. 2.12 Building Materials.
Sec. 2.13 Ground to Be Restored to Condition.
Sec. 2.14 Warning Signals at Danger Points.

2.1. **Rules of Port Commission to Be Obeyed**. No person shall willfully disobey or violate any of the rules or regulations of the Commission governing the use and enjoyment by the public of any park or of any building, structure, equipment, apparatus or appliance in any park, which rules or regulations, at the time, are posted in some conspicuous place in that area of the park or in or near the building, structure, equipment, apparatus or appliance to which the rule or regulation applies.

2.2. **Signs to Be Obeyed**. No person shall willfully disobey the notices, prohibitions or directions on any sign posted by the Commission.

2.3 **Public May be Excluded**. In case of an emergency, or when in the judgment of the Commission or the Executive Director the public interest demands it, any portion of any park or park building therein may be closed to the public until such park area or building is reopened to the public by the Commission or the Executive Director: provide, however, that nothing in this Section shall authorize the Executive Director to close any portion of any park building because of activities, existing or anticipated, engaged in for the purpose of expressing ideas or causes, which activities are protected by the First Amendment to the United States Constitution.

2.4 **Athletic Activities Prohibited in Certain Areas**. Where a sign is posted, no person shall participate in any athletic activity, including, but not limited to running, jogging, volleyball, baseball, soccer, football, roller skating, bicycle riding, skateboarding, or frisbee. The prohibition contained in this Section applies to running or jogging only when the person running or jogging does not remain on pedestrian paths.

2.5 **Restrictions on Posting of Signs**.

(A) No person shall post or affix to any tree, shrub, plant, fence, building, monument, wall, post, vehicle or other physical object in any park any written or printed material, including, but not limited to, signs, notices, handbills, circulars and pamphlets.

(B) Notwithstanding Section 2.5, signs may be posted in the following circumstances:

(1) Any person who has scheduled an event in any park pursuant to a permit from the Executive Director may erect or post signs on the day that the event is scheduled to occur giving directions to such event, provided that such person receive prior approval from the Commission.

(2) Any person leasing the park from the Commission may post signs on or about the premises leased informing the public of the event scheduled to occur, provided that the locations selected for such posting have been designated by the Executive Director as appropriate for such use, which designated location or locations for such facility shall be applicable to all lessees of such facility, and provided further, that such signs not be posted earlier than one week before the event is scheduled to occur nor later than one week after the event is over;

(3) Persons and organizations maintaining and operating recreational facilities on park property on a daily basis may post signs which identify the facilities which provide information pertaining to recreational activities, or which inform the public of events sponsored by such persons and organizations or of regulations governing such facilities, provided (A) that such signs are posted only on the facilities so operated and maintained, whether inside or outside and (B) that if they are posted outside, the organization receive prior written approval from the Executive Director.

(4) The Commission or its designee may post signs in any park or in any facility in any park governing the public use of park property or informing the public of events sponsored by the Commission.

(C) When a person or organization is required to obtain the prior written approval of the Executive Director in order to post a sign in a park, the Executive Director may withhold such approval only if it finds that the location of such sign or signs would harm public or private property, or inconvenience or endanger the public, or unduly cover or block park facilities.

(D) No sign which is posted pursuant to this Section shall be affixed to any tree, shrub or plant.

2.6. **Personal Services**. No person shall use any of the facilities or areas of any park for the purpose of providing tennis, golf, sailing, boating, baseball, jogging, horseback riding or other athletic instruction for compensation without first having obtained a permit, concession, license or lease from the Executive Director.

2.7 **Airplanes, Helicopters, Hot Air Balloons, Etc., Prohibited**. No person shall launch nor land any airplane, helicopter, parachute, hang glider, hot air balloon, nor any other machine or apparatus of aviation in any park, nor shall any person bring into any park any balloon with a diameter of more than six feet or a gas capacity of more than 115 cubic feet, without written permission of the Executive Director.

2.8 **Peddling and Vending Merchandise or Printed Material**. No person shall bring, or cause to be brought, for the purposes of sale or barter, or have for sale, or sell or exchange, or offer for sale or exchange any food, beverage, goods, wares, or merchandise in any park without first having obtained a permit, concession, license or lease from the Executive Director.

2.9 **Camping Prohibited**. No person shall construct or maintain any building, structure, tent or any other thing in any park that may be used for housing accommodations or camping, except by written permission from the Executive Director.

2.10 **Sleeping Prohibited During Certain Hours**. No person shall remain in any park for the purpose of sleeping between the hours of 10:00 p.m. and 6:00 a.m., except that special permission may be granted by the Executive Director to persons providing security services between said hours in any park or for other unusual events.

2.11 **Performance of Labor**. No person, other than duly authorized personnel, shall perform any labor, on or upon any park, including, but not limited to, taking up or replacing soil, turf, ground, pavement, structure, tree, shrub, plant, grass, flower and the like, without written permission of the Executive Director.

2.12 **Building Materials**. No person shall place, pile, deposit or leave any building material in any park without first having obtained all necessary permits, included but not limited to building permits from the Executive Director.

2.13 **Ground to Be Restored to Condition**. Where work has been done in any park pursuant to a permit, the permittee shall repair, reconstruct, and put the ground in as good condition in all respects when the work shall have been completed or terminated or such permit shall have expired, as said ground was in when said permit was granted or said work commenced; the condition of the ground, site or place in the park where the work has been done pursuant to

any permit shall be made satisfactory to the Executive Director, and on the completion of said work the permittee shall forthwith remove all buildings, structures, machinery or equipment used in connection with said work from the park.

2.14 **Warning Signals at Danger Points**. Every person who does any act in any park, whether the act is done by that person or by an agent or at the person's direction, and whether the person is acting as principal, contractor, or employer, and by that act makes the park or any portion of it dangerous must erect and, so long as the danger continues, maintain around the portion of the park so made dangerous a good and substantial barrier, and shall maintain at appropriate places along such barrier, during every night, from sunset until daylight, flashing lights, flares or some other suitable light sufficient to give warning of said danger.

Article 3. Disorderly Conduct

Sec. 3.1 Disorderly Conduct.
Sec. 3.2 Swimming Restrictions.
Sec. 3.3 Polluting Waters Prohibited.
Sec. 3.4 Littering and Dumping of Waste Matter Prohibited.
Sec. 3.5 Malicious Destruction of Property.
Sec. 3.6 Removal of Trees, Wood, Etc.
Sec. 3.7 Penalties for Violation of Section 119.
Sec. 3.8 Interference with Port Commission and Park Employees.
Sec. 3.9 Alcoholic Beverages.
Sec. 3.10 Persons Intoxicated by Alcohol or Drugs May Be Excluded.
Sec. 3.11 Persons May Be Excluded Under Certain Circumstances.
Sec. 3.12 Refusal to Obey Lawful Order.
Sec. 3.13 Fighting, Disturbing Peace, Offensive Words.
Sec. 3.14 Intoxication by Alcohol or Drugs.
Sec. 3.15 Minors, Parents and Guardians Of.

3.1. **Disorderly Conduct**. No person shall, in any park, without written permission of the Executive Director:

(A) Throw or propel objects of a potentially dangerous nature, including, but not limited to, stones, bottles, glass, cans or crockery;

(B) Fire or carry firearms of any size or description, or possess any instrument, appliance or substance designed, made or adopted for use primarily as a weapon, including, but not limited to, slingshots, clubs, swords, razors, billies, explosives, dirk knives, bowie knives or similar knives, except that this subsection shall not apply to a police or other peace officer;

(C) Fire or carry any firecracker, rocket, torpedo or other fireworks of any description (this subsection shall not be deemed to contradict any provisions contained in Chapter VIII (Police Code) of the San Francisco Municipal Code);

(D) Carry or use a model airplane which is powered by liquid fuel or designed to be used with such fuel;

(E) Make, kindle, maintain or in any way use a fire except at places provided, designated and maintained by the Commission for such use;

(F) Climb or lie upon any tree, shrub, monument, wall, fence, shelter, fountain, statute, building, construction or structure;

(G) Emit, eject, or cause to be deposited any excreta of the human body, except in proper receptacles designated for such purposes;

(H) Expose his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region or any portion of the female breast at or below the areola thereof, except that this section shall not apply to children under the age of five years;

(I) Enter a restroom or toilet set apart for use of the opposite sex, except children under the age of five years accompanied by a parent or guardian and duly authorized personnel for the purpose of inspection, maintenance or repair;

(J) Gain or attempt admittance to facilities in any park where a charge is made, without paying that charge;

(K) Play any percussion instrument, including drums, at any time or location prohibited by resolution of the Commission when a sign has been posted in the area affected to give notice of this prohibition; provided that such resolution does not unreasonably curtail the playing of such instruments in any area of the city.

3.2 **Swimming Restrictions**. No person shall enter, wade or swim in the waters of any lake, pond, pool, tank, fountain or reservoir in any park except where permitted by regulation or special written permission of the Executive Director. This restriction does not prohibit persons from entering, wading or swimming in the waters of San Francisco Bay.

3.3 **Polluting Waters Prohibited**. No person shall throw or place, or cause to be thrown or placed, any garbage, trash, refuse, paper, container, or nauseous or offensive matter into any pool, pond, tank, or fountain in any park, or into the waters of San Francisco Bay..

In addition, attention is called to the fact that state law prohibits the littering or dumping of waste into lakes and other bodies of water.

3.4 **Littering and Dumping of Waste Matter Prohibited**. Attention is called to the fact that state law prohibits the littering or dumping of waste matter in any public park. In addition, attention is called to City and County of San Francisco Health Code Section 1150, prohibiting the release or dumping of hazardous waste on public property.

3.5 **Malicious Destruction of Property**. Attention is called to the fact that state law prohibits the malicious defacement, damage or destruction of real or personal property.

3.6 **Removal of Trees, Wood, Etc**. No person shall remove or take away any tree, wood, bush, turf, shrub, flower, plant, grass, soil, rock, or anything of like kind from any park without written permission of the Executive Director.

3.7 **Penalties for Violation of Section 3.6**.

(A) Any person convicted of a violation of Section 3.6 of this Code shall be punished by a mandatory fine of not less than $50 nor more than $500 upon a first conviction, by a mandatory fine of not less than $100 nor more than $500 upon a second conviction and by a mandatory fine of not less than $150 nor more than $500 upon a third or subsequent conviction.

(B) The court shall, in addition, impose a civil penalty or an amount necessary to reimburse the Commission for the value of the tree, wood, bush, turf, shrub, flower, plant, grass, soil, compost, rock, water or other material removed as well as any labor expended to replant or otherwise restore the area affected. Any revenue collected as a civil penalty pursuant to this Section shall be credited to the Commission.

3.8 **Interference with Port Commission Employees**. No person shall, with malice, interfere with or in any manner hinder any employee of the Commission or a duly authorized contractor while that person is engaged in constructing, repairing, or caring for any portion of the park or is otherwise engaged in the discharge of such employee's duties.

3.9 **Alcoholic Beverages**. No person shall consume alcoholic beverages of any kind in any building, children's playground, swimming pool, or restroom, except with the written permission of the Executive Director.

3.10 **Persons Intoxicated by Alcohol or Drugs May Be Excluded**. Members of the San Francisco Police Department and Port Commission employees, including members of a Park Patrol, are authorized to order persons to stay out of, or to leave, any park, or any facility, building or structure therein, when such officers or employees have reasonable cause to conclude that the person so ordered is under the influence of intoxicating liquor, any drug, or any "controlled substance" as that term is defined and described in the California Health and Safety Code, or any combination of any intoxicating liquor, drug, or controlled substance, and is in such a condition that he or she is unable to exercise care for his or her own safety or the safety of others or interferes with or obstructs or prevents the free use of park property.

3.11 **Persons May Be Excluded Under Certain Circumstances**. Members of the San Francisco Police Department and Commission employees, including members of a Park Patrol, are authorized to order any person to stay out of or to leave any park, or any facility, building or structure therein, when such officers or employees have reasonable cause to conclude that the person:

(A) Is consuming alcoholic beverages in violation of Section 3.10 of this Code;

(B) Is using any drug or controlled substance, as defined above, or any combination of any intoxicating liquor, drug, or controlled substance; or

(C) Is doing any act injurious to any park or any building, structure or facility therein;

(D) While using any athletic facility or area, disobeys any rule or regulation governing such area or facility after being warned not to do so by a Commission or Park Employee, including members of a Park Patrol, when the employee has reasonable cause to conclude that such behavior damages or risks damage to park property or interferes with the use and enjoyment

of such area or facility by other persons; or

(E) Behaves in so noisy, boisterous or rowdy a manner as to disturb spectators or participants at an athletic event.

3.12 **Refusal to Obey Lawful Order**. It shall be unlawful for any person to refuse to obey the lawful order of a police officer or an employee of the Commission made pursuant to Section 3.11 of this Code.

3.13 **Fighting, Disturbing Peace, Offensive Words**. Attention is called to the fact that state law prohibits unlawful fighting in public places, the malicious and willful disturbance of others by loud and unreasonable noise, and the use of offensive words in a public place which are inherently likely to provoke an immediate violent reaction.

3.14 **Intoxication By Alcohol or Drugs**. Attention is called to the fact that state law provides that any person in a public place who is under the influence of intoxicating liquor, drugs, or certain specified substances and endangers himself or others or interferes with the free use of a public way is guilty of disorderly conduct.

Minors, Parents and Guardians Of. No parent, guardian or custodian of a minor shall permit or allow such minor to do any act or thing in any park prohibited by the provisions of this Code.

Article 4. Animals

Sec. 4.1 Dogs, Cats Only Allowed.
Sec. 4.2 Animals Prohibited from Certain Areas.
Sec. 4.3 Cats Must Be on Leash or in Transport Box.
Sec. 4.4 Vicious Animals Prohibited.
Sec. 4.5 Abandonment of Animals Prohibited.
Sec. 4.6 Feeding Animals Prohibited.
Sec. 4.7 Disturbing Animals, Birds, Fish Prohibited; Exceptions.

4.1 **Dogs, Cats Only Allowed**. No person shall lead, drive, conduct or otherwise bring or allow to remain in any park any animal, bird, fish or reptile other than dogs and domestic cats. This Section shall not apply to persons acting pursuant to a permit from the Executive Director when the permit allows the presence of such animal, bird, fish or reptile. This Section shall not prohibit any person from transporting fish or shellfish legally caught in San Francisco Bay from the shoreline of any park across such park.

4.2 **Animals Prohibited From Certain Areas**. No person, other than members of the Police Mounted Detail when on duty, shall, in any park, allow any animal in his or her custody to enter any building, or any playground, sandbox or other area reserved for children, or to enter or drink the water of any drinking fountain, lake or pond located in any park, not including San

Francisco Bay, except at places designated and maintained for such purpose. Notwithstanding the above provision, a blind person may enter these areas with a guide dog.

4.3 **Cats Must Be on Leash or In Transport Box**. No person shall carry, lead, conduct or otherwise bring or allow to remain in any park a domestic cat unless the animal is on leash not exceeding six feet in length or in an animal transport box equipped with vent holes capable of providing the animal with sufficient air.

4.4 **Vicious Animals Prohibited.** No person shall keep or permit to remain in any park a noisy, vicious, or dangerous animal or an animal which unduly disturbs other persons in the park.

4.5 **Abandonment of Animals Prohibited**. No person shall abandon any animals in any park.

4.6 **Feeding Animals Prohibited**. It shall be unlawful for any person to feed or offer to any animal in any park any substance which would be likely to be harmful to it.

4.7 **Disturbing Animals, Birds, Fish Prohibited; Exceptions**. Except as provided in Article 7, Chapter VIII (Police Code) of the San Francisco Municipal Code, it shall be unlawful for any person, including City and County of San Francisco, its officers, employees or agents, to hunt, chase, shoot, trap, discharge or throw missiles at, molest, disturb, capture, injure, or destroy any animal in any park, or to permit any animal in such person's custody or control to do so; provided, however, than any mole or any gopher, mouse, rat or other rodent which is determined by said Executive Director to be a nuisance may be destroyed by said Executive Director or a designated representative; and provide, further, that any animal other than a mole or a gopher, mouse, rat or other rodent which is determined by said Executive Director to be a nuisance or a hazard to persons using said areas or to be a hazard to plants or other horticulture, may, in a humane manner, be live trapped by said Executive Director and delivered to the Animal Control Officer for disposition pursuant to the provisions of Sections 41.7 through 41.9, inclusive, of Article 1, Chapter V (Health Code) of the San Francisco Municipal Code. This Section shall not restrict in any way the rights of the public to fish in San Francisco Bay.

Article 5. Traffic Regulations

Sec. 5.1 Operation and Parking of Vehicles.
Sec. 5.2 Towing of Vehicles.
Sec. 5.3 Commercial Vehicles Prohibited.
Sec. 5.4 Parking of Sightseeing Buses.
Sec. 5.5 Transportation of Residential or Commercial Garbage.
Sec. 5.6 Soliciting Passengers for Vehicles Prohibited.
Sec. 5.7 Penalties.
Sec. 5.8 Exceptions

5.1 **Operation and Parking of Vehicles**.

(A) No person shall drive or propel any vehicle within any park except upon the paved roads, driveways, and highways provided or unpaved roads designated by sign or signal for use by such vehicular traffic;

(B) All persons operating vehicles must drive or propel them in a careful manner, at a lawful rate of speed, and in accordance with the rules and regulations of the Commission, San Francisco Traffic Code, Port of San Francisco Harbor Traffic Code and California Vehicle Code, as such rules we amended from time to time;

(C) No person shall drive or propel any vehicle on any planted area or on any access road or unpaved service road or fire trail in any park;

(D) No person shall park any vehicle on any lawn, or planted area, or unimproved area or on any pedestrian or equestrian lane, or on any access road or unpaved service road or fire trail or in any manner so as to block access to or exit from any pier, service road or access road or fire trail, or in any other place in the park where the rules and regulations of the Commission prohibit vehicular parking, unless allowed otherwise by permit;

(E) No person shall wash, grease, or repair any vehicle in any park except insofar as repairs may be necessary for the immediate removal of any damaged or disabled vehicle from the park;

(F) No vehicle shall be parked on any road, place or highway in any park except on the extreme side of said road, place or highway and immediately adjacent to an curb or any planted portion of the park. The Commission shall have full power and authority to set aside suitable space for the parking of any vehicle off any road, place or highway. The extreme right of said road, place or highway shall be deemed to be the right-hand side of any road, place or highway as measured or applied in the direction in which any vehicle is traveling. Nothing in this Section shall be deemed to prohibit parking on the extreme left side of any on-way road or highway, provided such parking is otherwise permitted, which side shall be deemed to be the left-hand side of any road or highway as measured or applied in the direction in which any vehicle is traveling.

(G) No person shall park any automobile or any other vehicle, including a horse trailer, whether attended or unattended, in any park, between the hours of 10:00 p.m. and 6:00 a.m. except (1) when attending an event or function authorized by the Commission or Executive Director, and then only when the person parks the vehicle in an area specifically designated for such parking in connection with said event or function; (2) when such parking is necessary because of an emergency, such as a flat tire or other mechanical failure, in which case the vehicle shall not be parked any longer than necessary; or (3) when a sign is posted or notice is otherwise provided that parking is permitted in a designated area between 10:00 p.m. and 6:00 a.m., or some portion of those hours.

(H) No person shall, in any park, allow any automobile or other vehicle to remain parked in any parking lot which is open for public use and for which a fee is charged for parking, for a period of more than 24 hours after the expiration of the period for which the fee is charged, unless otherwise allowed by permit.

(I) No person shall, in any park, allow any automobile or any other vehicle that is disabled to remain parked in any parking lot which is open for public use and for which a fee is charged for parking, unless otherwise allowed by permit.

5.2 **Towing of Vehicles**. Whenever any member of the San Francisco Police Department, employee or lessee authorized by the Commission finds any vehicle parked in violation of Sections 5.1(D), (E), (F), (G), (I), of this Code, such officer, employee or lessee may provide for the removal of such vehicle, so long as signs have been posted to inform the public that vehicles so parked are subject to removal and, with respect to Section 5.1(H), so long as there is an attendant on duty or other facilities permitting the patron to pay or remit the parking charges at the time the vehicle is first parked.

The procedure for removal and impounding of vehicles shall be as is provided for in applicable provisions of the San Francisco Traffic Code and Sections 22850 to 22855 of the California Vehicle Code.

Moreover, any vehicle stopped, parked or left standing in such a manner as to violate Sections 5.1(D), (E), (F), (G), (I), of this Code is an obstruction to the free use of property and a nuisance within the meaning of Part III of the Civil Code of California relating to nuisances and the abatement thereof.

5.3 **Commercial Vehicles Prohibited**. No person shall bring or cause to be brought into any park any vehicle designed, used or maintained primarily for the transportation of goods, food, beverage, wares, merchandise, soil, building material or other article or thing of commerce or trade unless such person is bring such vehicle into a park by written permission of the Executive Director.

5.4 **Parking of Sightseeing Buses**. No person shall park a sightseeing bus in any park unless such person (1) has obtained a permit from the Executive Director and paid any fee which may be required by the Commission for the issuance of such a permit and (2) parks in an area which has been designated by the Commission as a parking area for sightseeing buses, either by the posting of a sign or by written notice kept on file with Executive Director of the Commission and made available to any interested person upon request.

5.5 **Transportation of Residential Or Commercial Garbage**. It is unlawful to transport residential or commercial garbage within any vehicle within the confines of any park. "Garbage" shall include, but not be limited to, the following: Dry or wet fill, emptied food containers, metallic machinery parts, auto parts, refuse, offal, vegetables, paper, dirt, remains of food, newspapers, filth or rubbish. This section shall not apply to an authorized scavenger service which is servicing any facility or area in any park.

5.6 **Soliciting Passengers For Vehicles Prohibited**. No person shall solicit or arrange or contract or make any agreement for or establish or maintain any stand or other equipment for procuring customers or passengers for any carriage, coach, automobile, bus, horse drawn carriage or other vehicle, let or used for hire, in any park without first having obtained a permit to do so from the Commission. Nor shall any person drive or park a taxicab in any park for the purpose of procuring customers unless such person is responding to a call for a taxicab.

5.7 **Penalties**. A person who violates Section 5.1(C), (D), (E), (F) or (G) of this Code shall be guilty of an infraction and upon conviction thereof shall be punished for the first offense by a fine not to exceed $50; for the second offense committed within a one-year period by a fine not to exceed $100; for a third and each additional offense committed within a one-year's period by a fine not to exceed $250.

This Section shall not be deemed to contradict Section 137 of this Code concerning the towing of vehicles in violation of Section 136 (D), (F) or (G).

5.8 **Exceptions**. The provisions of this Article shall not apply to any person employed by the City and County of San Francisco, while in the discharge of authorized duties and while operating an official vehicle or any other vehicle with an appropriate permit displayed.

Article 6. Permits

Sec. 6.1 Permits-Purpose
Sec. 6.2 Definitions.
Sec. 6.3 Permits Required.
Sec. 6.4 Additional Activities Requiring Permits.
Sec. 6.5 Permit Procedure.
Sec. 6.6 Conditions.
Sec. 6.7 Permits-Basis for Denial
Sec. 6.8 Petitioning, Leafletting, Picketing, Soliciting.
Sec. 6.9 Reservations of Buildings.
Sec. 6.10 Sales Prohibited at Art Shows.
Sec. 6.11 Commercial Photography, Filming, Recording.
Sec. 6.12 Permits-Athletic Events.
Sec. 6.13 Permit Requests by Governmental Units.
Sec. 6.14 Permits-Rights Granted.
Sec. 6.15 Duties of Permittee.
Sec. 6.16 Permits-Failure to Obtain.
Sec. 6.17 Procedure for Billing Costs.
Sec. 6.18 Violation of Permit Conditions.
Sec. 6.19 Appeal.

6.1 **Permits-Purpose**. Although the First Amendment of the U.S. Constitution and Article 1, Section 9 of the California Constitution guarantee freedom of speech and association, the City and County of San Francisco is authorized to impose reasonable restrictions on the time, place and manner of such expression. In accordance with this right, the Commission requires permits for certain activities which occur on park property in order (1) to coordinate activities planned by different groups so that as many people as possible can use and enjoy the park at the same time; (2) to learn the details of the proposed activity in order to establish rules in order to establish rules aimed at preventing inconvenience or harm to the public or the park; (3) to require appropriate insurance in order to relieve the Commission of liability from any harm that occurs;

and (4) to insure that recreational facilities most suited for the activity are used.

6.2 **Definitions**. For the purposes of this Article, the following terms shall be defined as indicated below:

(A) **Amusement Park Rides**- Rides of the type normally found in amusement parks or carnivals, such as ferris wheels.

(B) **Animal Show**- The formal exhibition of animals to the public or to a group of 25 or more persons for entertainment or competition.

(C) **Art Shows**- The exhibition or display of paintings, sculptures or other works of art, but not activities performed by street artists licensed pursuant to Part II, Chapter VIII (Police Code) of the San Francisco Municipal Code.

(D) **Band**- A group of musicians playing acoustical instruments normally played in a brass band.

(E) **Demonstration**- Carrying or wearing a sign or signs, singing, talking in unison or in any other manner expressing ideas, advocating causes or conveying a message to the public at large or to a particular person or persons.

(F) **Exhibition**- Public display of manufactured goods, plants or other objects but not displays by street artists licensed pursuant to Part II, Chapter VIII (Police Code) of the San Francisco Municipal Code.

(G) **Leafletting**- Distributing leaflets, handbills, notices or any written material to the public.

(H) **Orchestra**- A group of musicians playing string, percussion, brass and wood wind instruments.

(I) **Parade**- Any march or other organized movement or person from place to place or about a place.

(J) **Petitioning**- Requesting persons to sign a petition.

(K) **Publicize**- To inform the public of a planned event by means of newspaper articles or notices, radio or television stories or notices, announcements in public places, leafletting, posting signs or written notices in places viewed by the public, or by other means calculated to notify the public of an event.

(L) **Soliciting**- Requesting persons to contribute money or anything else of value for charitable, religious or political cause.

6.3 **Permits Required**. No person shall, without a permit, perform any of the following acts in any park:

(A) Conduct or sponsor a parade involving (1) 50 or more persons; (2) the use of any street in any park; or (3) vehicles.

(B) Conduct or sponsor an event in which persons engage in petitioning, leafletting, demonstrating or soliciting when the number of petitioners, leafletters, demonstrators, or solicitors engaging in one or more of these activities involves 50 or more such persons at the same time within an area circumscribed by a 500 foot radius.

(C) Sell or offer for sale books, newspapers, periodicals, or other printed material.

(D) Conduct or sponsor any exhibit, promotion, dramatic performance, theatrics,

pantomime, dance, fair, circus, festival, juggling or other acrobatics or show of any kind or nature which has been publicized four hours or more in advance.

(E) Perform any feat of skill or produce any amusement show, movie or entertainment which has been publicized four hours or more in advance.

(F) Make a speech which has been publicized four hours or more in advance.

(G) Conduct or sponsor a religious event involving 50 or more persons;

(H) Conduct or sponsor a concert or musical performance which (1) has been publicized four hours or more in advance, or (2) utilizes sound amplification equipment, or (3) involves a band or orchestra.

(I) Participate in a picnic, dance or other social gathering involving 25 or more persons.

(J) Sell or provide food to persons, except that no permit is required when a person participating in a picnic or social gathering of 25 or fewer persons provides food to others who are also participating in the picnic or social gathering.

(K) Conduct or sponsor a race or marathon which involves 25 or more persons as participants or which obstructs or interferes with the normal flow of vehicular or pedestrian traffic.

(L) Conduct or sponsor any event which utilizes sound amplification equipment, as defined in Part II, Chapter VIII (Police Code) of the San Francisco Municipal Code.

(M) Conduct or sponsor an exhibition.

(N) Conduct or sponsor an animal show.

(O) Conduct a wedding ceremony.

(P) Conduct or sponsor an art show.

(Q) Operate any amusement park device. The Commission or the Executive Director may prohibit the operation of such devices in any park or, if it allows such operation, may designate those locations where such operation is permitted.

(R) Conduct or sponsor an organized kite-flying event of any club or organization.

(S) Station or erect any table scaffold, stage, platform, rostrum, tower, stand, bandstand, building, fence, wall, monument, dome or other structure.

(T) Park any vehicle in any park in an area not normally used for parking vehicles or in an area normally used for parking vehicles when the vehicle is used in conjunction with an activity for which a permit is obtained pursuant to a provision of this Code other than this subsection.

6.4 **Additional Activities Requiring Permits**.

(A) Attention is called to other provisions of this Code which require persons engaging in certain activities to obtain a permit, including, but not limited to, the following:

(1) Launching or landing any airplane, seaplane, helicopter, parachute, hang glider, hot air balloon or other machine or apparatus of aviation, in any park, or bringing into a park any balloon with a diameter of more than six feet or a gas capacity of more than 115 cubic feet;

(2) Bringing, or causing to be brought, for the purposes of sale or barter, or having for sale, or selling or exchanging, or offering for sale or exchange any food, beverage, goods, wares or merchandise;

(3) Constructing or maintaining any building, structure, tent or any other thing in any park that may be used for housing accommodations or camping;

(4) Remaining in any park for the purpose of sleeping between the hours of 10:00 p.m. and 6:00 a.m. in order to provide security services between said hours in any park.

(B) The Commission may by resolution require a permit for additional activities when such a requirement further the purposes set forth in Section 6.1 of this Code.

6.5 **Permit Procedure**. The Commission shall by resolution adopt procedures for the filing and processing of permit applications, which resolution shall be filed with the Port Commission and shall be made available to the public upon request. The resolution required by this Section, as well as any amendment thereto is subject to the approval of the City Attorney. The Executive Director is hereby authorized to make any non-substantial amendments to such permit procedures necessary for the efficient administration of the permit process.

6.6 **Conditions**.

(A) The Executive Director or the Commission may impose reasonable conditions on approval of a permit application in order to insure that public or private property is not damaged and that the comfort, convenience, safety or welfare of the public is not disturbed. Such conditions may be imposed on a permittee after the permit application has been approved if information has been received by the Executive Director after such approval which would provide reasonable grounds for the conclusion that further conditions are necessary, including the condition that the location of the proposed activity be changed. The provisions of this Section are designed to secure for permit holders an opportunity fully to exercise the rights conferred upon them by the permit without unreasonably interfering with the rights of other members of the public to use park property and adjacent areas or to engage in First Amendment activities. The Executive Director shall in no event impose conditions pursuant to this Section which are designed to limit the content of First Amendment expression engaged in by persons affected by the permit or which unreasonably interfere with the right of free speech.

(B) The conditions which may be imposed on permit applicants include the following: (1) posting a performance bond to insure the property is restored and cleaned at the conclusion of the permitted activity; (2) providing insurance to protect the City from liability from any harm that such activity might cause; and (3) agreeing to reimburse the Commission for any costs incurred by it in restoring damage to property caused by the actions of the permittee, its officers, employees, or agents, or any person who was, or reasonably should have been, under the permittee's control and to defend the City against, and indemnify and hold the City harmless from, any liability to any person resulting from any damage or injury cause by the actions of the permittee, its officers, employees, or agents, or any person who was or reasonably should have been, under the permittee's control.

(C) When an applicant for a permit to perform an activity which is protected by the First Amendment to the U.S. Constitution and for which a performance bond must be posted produces evidence that providing a cash performance bond would be impossible or so financially burdensome that it would preclude the applicant from using park property for the proposed activity, the Executive Director shall accept property in lieu of a cash performance bond so long as the property offered is of a type which will reasonably insure restoration and cleaning of the property to be used by the applicant at the conclusion of the permitted activity.

(D) No applicant shall be required to comply with the provisions of Subsection (B)(2) pertaining to insurance if the activity proposed is protected by the First Amendment of the U.S. Amendment of the U.S. Constitution and the applicant produces evidence that complying with those provisions is impossible or so financially burdensome that it would preclude the applicant from using park property for the proposed activity.

6.7 **Permits-Basis For Denial**. The Executive Director shall approve a permit application unless:

(A) A written application for a permit to use the same location at the same time has been received and such application has been or will be approved authorizing an activity which does not reasonably permit multiple occupancy of the area;

(B) The proposed activity would conflict with a previously planned program sponsored by the Commission and scheduled for the same location as that requested by the applicant;

(C) The Executive Director has reasonable cause to conclude that the applicant or any person or persons participating in the proposed activity will, in connection with that activity, cause physical injury to person or substantial damage to property; provided, however, that in determining whether such reasonable cause exists the Executive Director shall not consider the content of expression which is proposed or anticipated;

(D) The proposed activity is inconsistent with the purpose for which the facility or area has been established or designated;

(E) The location selected is inappropriate because (1) the nature of the proposed activity or the number of person expected in connection with the activity would be likely to damage trees, plants or other vegetation; (2) the activity would unduly disturb adjacent neighborhoods because of the nature of the proposed activity or the number of persons expected to be involved; or (3) other activities have been scheduled in an area or areas near the location proposed by the applicant, or they normally occur in such area or areas, and permitting the proposed activity to occur in the proposed location would unreasonably interfere with park use and enjoyment by participants in such activities;

(F) The applicant fails to obtain necessary approvals, permits, or licenses from other governmental departments or agencies;

(G) The applicant has not complied with the procedural requirements established by Commission resolution for the filing of permit applications;

(H) The applicant fails or refuses to pay a processing fee or a user fee, or both, which the Commission has established by resolution;

(I) The applicant fails or refuses to post a performance bond when required to do so by the Commission;

(J) The applicant fails or refuses to provide insurance when required to do so by the Commission;

(K) The applicant fails or refuses to execute an agreement to reimburse the Commission for any cost incurred by it in restoring damage to the property occasioned by, or arising out of, the permitted activity, and to defend the City against and indemnify and hold the City harmless from, any liability to any person occasioned by, or arising out of, the permitted activity, when such an agreement is required by the Commission;

(L) The application contains misrepresentations of material fact;

(M) The proposed activity is prohibited by law;

(N) The applicant refuses to comply with conditions reasonably imposed on approval of the permit application by the Executive Director or the Commission in order to insure that public or private property is not damaged and that the comfort, convenience, safety and welfare of the public are not disturbed.

Whenever a permit application is denied, the Executive Director shall inform the applicant of the reason for the denial and when a change in location would allow approval, shall offer alternative suitable locations.

6.8 **Petitioning, Leafletting, Picketing, Soliciting**.

(A) No person may be required to engage in petitioning, leafletting, demonstrating or soliciting so long as engaging in any of these activities, or any combination of these activities, does not involve 50 or more petitioners, leafletters, demonstrators, or solicitors at the same time within an area circumscribed by a 500-foot radius, provided.

(B) It shall be unlawful for any person to engage in petitioning, leafletting, demonstrating or soliciting in such a manner as to substantially obstruct any traffic of pedestrians or vehicles after being warned by a peace officer or a member of the Park Patrol not to do so.

(C) Where the park is a frequent site for the issuance of permits involving large groups of people, in order to prevent interference with the progress and enjoyment of these events, no person may engage in petitioning, leafletting, demonstrating or soliciting in these parks while an event is in progress for which a permit has been issued by the Commission or Executive Director except in those areas designated as public assembly areas. No person shall be considered in violation of the prohibition contained in this subsection until he or she has been informed by a member of the San Francisco Police Department, a member of the Park Patrol, or a member of the Commission who displays proper identification of such employment that the event is being conducted pursuant to a valid permit or until the permit pursuant to which the event is being conducted has been shown to such person.

6.9 **Reservation of Buildings**. The procedure for reserving the use of any building in any park shall be established by the Commission and shall be kept on file with the Commission and made available to the public upon request.

6.10 **Sales Prohibited at Art Shows**. When conducting or participating in an art show in any park, no person shall sell or offer for sale any work of art unless the permit authorizing the art show allows such sales.

6.11 **Commercial Photography, Filming, Recording**. No person shall engage in commercial photography, filming or recording in any park without first having obtained a permit. The procedure for obtaining such permits shall be established by the Commission and shall be kept on file with the Commission and made available to the public upon request.

6.12 **Permits-Athletic Events**. Athletic areas and structures, such as baseball diamonds, soccer pitches, football fields, and swimming pools may be reserved by obtaining a permit from the Commission.

6.13 **Permits Requested by Governmental Units**. Any processing or user fee established by the Commission for the use of park property may be waived where the applicant is the United States of America, the State of California or subdivision thereof, an agency or commission of the City and County of San Francisco, or other governmental unit.

6.14 **Permits-Rights Granted**. Any person possessing a valid permit, which states that an area has been reserved for such person's use, has the exclusive right to use the area or facility specified in the permit for the time specified. It shall be unlawful for any person to refuse to leave an area or facility which has been reserved by a valid permit when asked to do so by the person nor party displaying such permit, by a Commission employee, by a police officer, or by a member of the Park Patrol, and no person shall in any manner disturb or interfere with any person or party occupying the area under such a permit, nor with the belongings of such person or party.

6.15 **Duties of Permittee**. It shall be the duty of every permittee:

(A) To obey all laws and the terms and conditions of the permit;

(B) To clean the area used after the permitted activity is over and to restor the area and property used to the same condition as existed prior to the activity; and

(C) To reimburse the Commission for any expenses incurred by it, including the cost of labor, in cleaning and restoring the park or making repairs to property and equipment, which expenses may be occasioned by the permitted activity.

6.16 **Permits-Failure to Obtain**. It shall be unlawful for any person to conduct or sponsor any activity which requires a permit without first having obtained the appropriate permit and, when requested to do so by a Commission employee, a member of the Park Patrol, or by a police officer, displaying such permit. Furthermore, it shall be unlawful to participate in such an activity with knowledge that it is being conducted without a permit when a permit is required pursuant to this Code.

6.17 **Procedure for Billing Costs**. Within 30 days of the exercise of any permit, the Executive Director shall determine and transmit to the permittee a bill for all cost above and beyond normal cleaning cost which are or will be incurred by the Commission in cleaning or restoring any park or making repairs to property and equipment, which costs were occasioned by, or arose out of, or arose out of, the activity engaged in pursuant to the permit. The permittee shall have 30 days from the transmission of such bill in which to pay or request adjustment of the same. Any request for adjustment shall be transmitted in writing to the Executive Director, who shall determine whether an adjustment is proper. The permittee shall pay the bill or adjusted bill promptly upon transmission to the permittee of a statement of the determination of the Executive Director with respect to the adjustment. Any request for adjustment shall be deemed waived if not timely or if not transmitted in writing.

6.18 **Violation of Permit Conditions**. Whenever a permittee or those under the control of the permittee violate any condition contained in the permit, a member of the San Francisco Police Department may revoke the permit. It shall be unlawful for any person to continue to engage in an activity for which a permit was required and issued after the permit has been revoked pursuant to this Section, provided, however, that no person shall be in violation of this Section until notice has been given that the permit has been revoked.

6.19 **Appeal**. The Commission shall by resolution adopt procedures for the appeal of the denial of a permit application to the Commission or, in those instances when a quorum of the Commission cannot be convened in a timely manner, to the Executive Director. The Commission or the Executive Director shall afford the applicant an opportunity for a hearing and may reverse, affirm or modify in any regard the determination of the Executive Director concerning the denial of a permit application. When the Commission affirms the denial of a permit application such a decision shall be based on one or more of the reasons listed in Section 6.7 of this Code. This duty may not be delegated.

Article 7. South Beach Park

Sec. 7.1 .Wheeled Equipment Prohibited.

7.1 **Wheeled Equipment Prohibited**. No person, other than employees or agents of the Commission, the Redevelopment Agency, or its respective contractors when on duty, shall bring any wheeled conveyances, including but not limited to trucks, cars and skateboards, into South Beach Park except when acting pursuant to a permit issued by the Commission or its designee. Notwithstanding the above provisions, wheelchairs, stroller and toys appropriate for preschool children, such as wagons and tricycles, may be brought into South Beach Park without a permit. Bicycles may be walked through the park or locked in designated locations without a permit.

Article 8. Severability

Sec. 8.1 Severability.

8.1 **Severability**. If any of the provisions of this Code, or the application of such provisions to any person or circumstance, shall be held invalid, the remainder of this code, or the application of such provisions to persons or circumstances other than those to which it is held to be invalid, shall not be affected thereby.

Article 9. Penalties

Sec. 9.1 Penalties.

9.1 **Penalties**. Unless otherwise specified in this Code, any person violating any section of this Code shall be deemed guilty of a misdemeanor or an infraction. The complaint charging such violation shall specify whether the violation is a misdemeanor or infraction, which

decision shall be that of the District Attorney; provided, however, that whenever a person has been arrested and incarcerated based solely on the violation or violations of this Code, he or she shall retain the right at the time of arraignment or plea to object to the offense being made an infraction, in which event the complaint shall be amended to charge the misdemeanor and the case shall proceed on the misdemeanor complaint.

Upon convictions of a violation charged as an infraction, the person so convicted shall be punished for the first offense by a fine of not less than $10 nor more than $50, and for a second and each additional offense by a fine of not less than $20 nor more than $100.

Upon conviction of a violation charged as a misdemeanor, the person so convicted shall be punished by a fine of not more than $500 or by imprisonment in the County Jail for a period of not more than six months, or by both such fine and imprisonment.

Sec. 10.1 Police Authority.

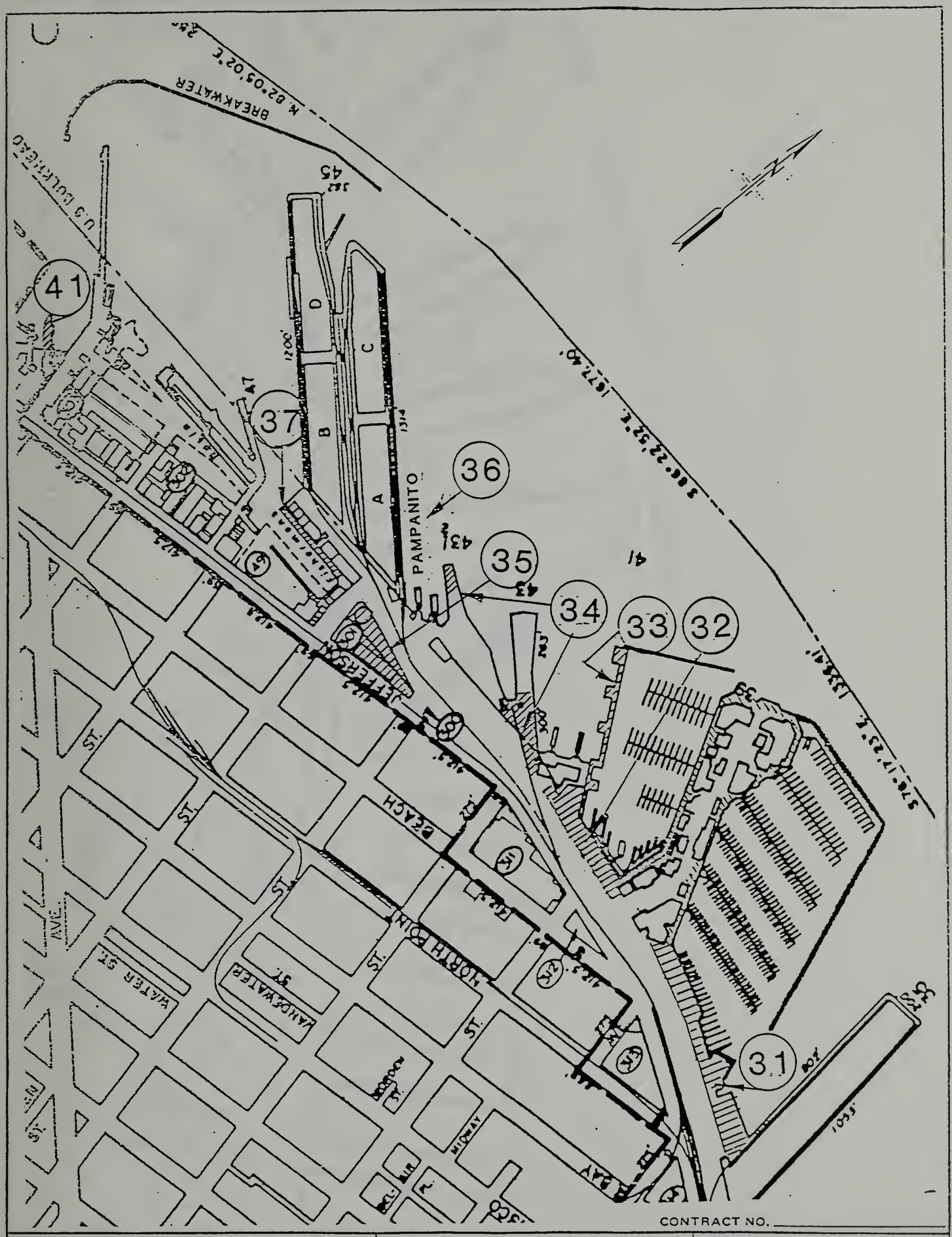
10.1 **Police Authority.** The Commission shall authorize peace officers or employees of the Commission to carry out the provisions of this code.

APPENDIX A

PORT PROPERTY UNDER PARK CODE

That Certain Property under the Jurisdiction of the Port of San Francisco That Is Open for Public Access, Listed below and Shown on the Maps Attached Hereto. The Numbers Set Forth or the Attached Maps Correspond to the Numbers Listed Below:

1. India Basin Shoreline Park
2. Pier 98 - Existing wetlands
3. Pier 98 - Planned wetlands enhancement and passive recreation park
5. Friends of Islais Creek public access improvements
6. Department of Public Works public access improvements
7. Department of Public Works public access improvements
8. Warm Water Cove Park and fishing pier
9. Agua Vista Park
11. Pier 52 Boat Launch and Service Engineering public access improvements
13. Mission Creek Harbor Association public access improvements
14. South Beach Park - Phase Two
15. South Beach Park - Phase One
16. South Beach Yacht Harbor public access improvements
20. Embarcadero Promenade between Pier 22 ½ and The Agriculture Building
21. SWL 347N Urban Plaza
23. Ferry Plaza public access improvements and ferry passenger terminal
24. Pier ½ public access improvements
25. Ferry Boat Santa Rosa public access
26. Pier 7 public access and fishing pier
27. Waterfront Restaurant public access improvements
28. Pier 23 public access improvements
30. Cruise terminal viewing deck at Pier 35
31. East Wharf Park
32. Pier 39 and Underwater World public access improvements
33. Pier 41 public access pier
34. Pier 43 and 43 ½ public access areas
35. Fisherman's Wharf Triangle Lot public access improvements
36. Pier 45 public access near historic submarine "Pampanito"
37. Inner Lagoon boardwalk
41. South End Rowing Club Public Sun Deck



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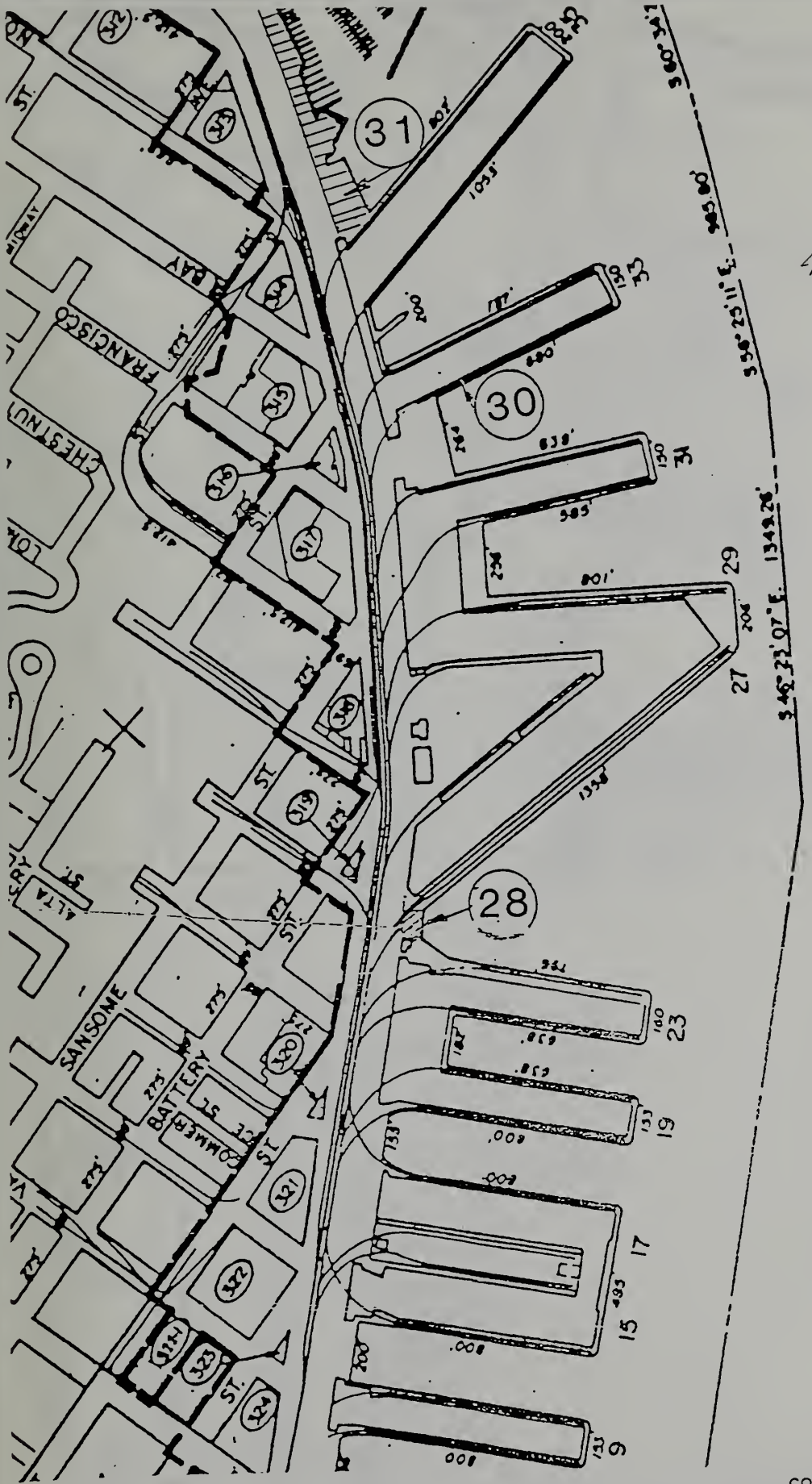

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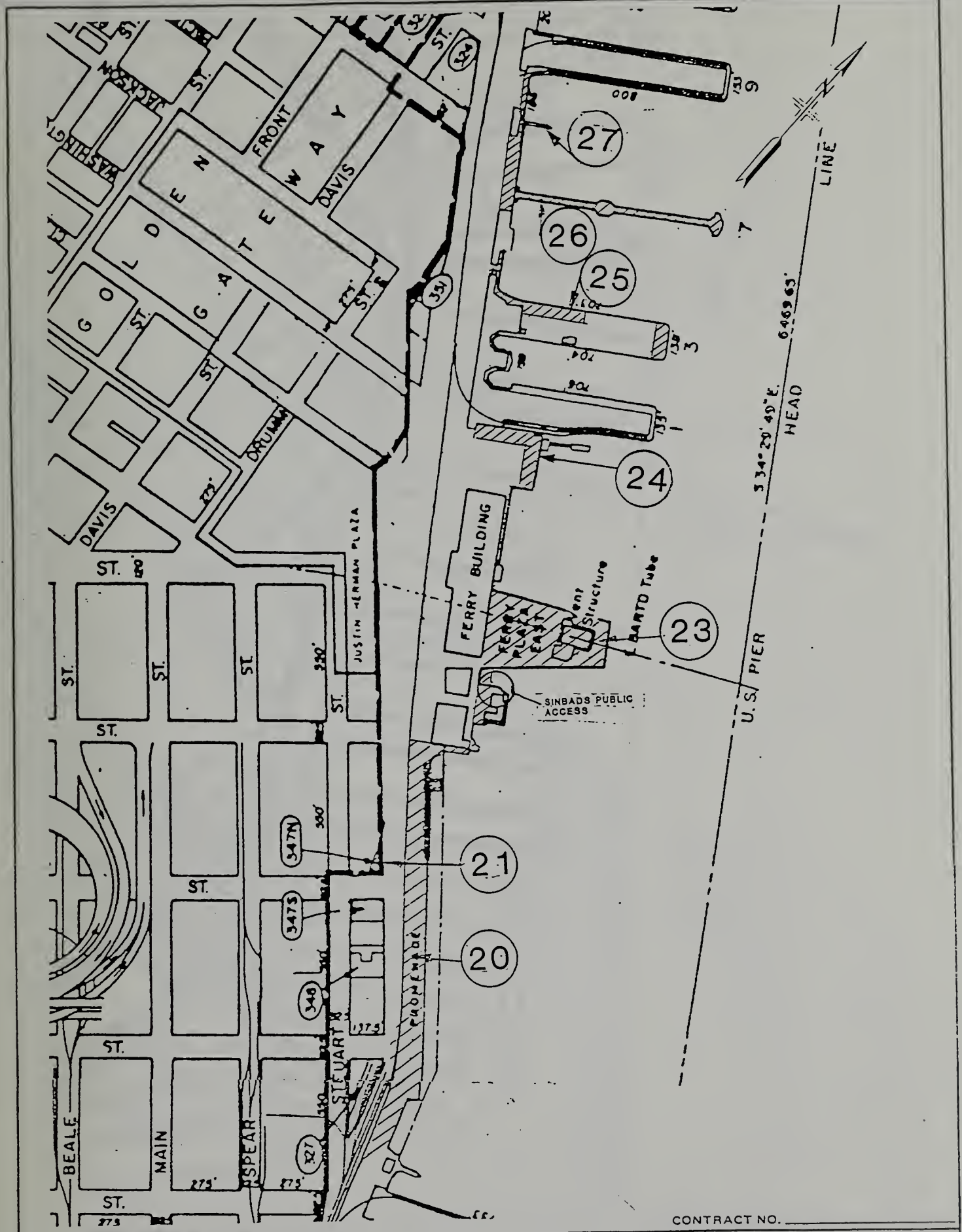

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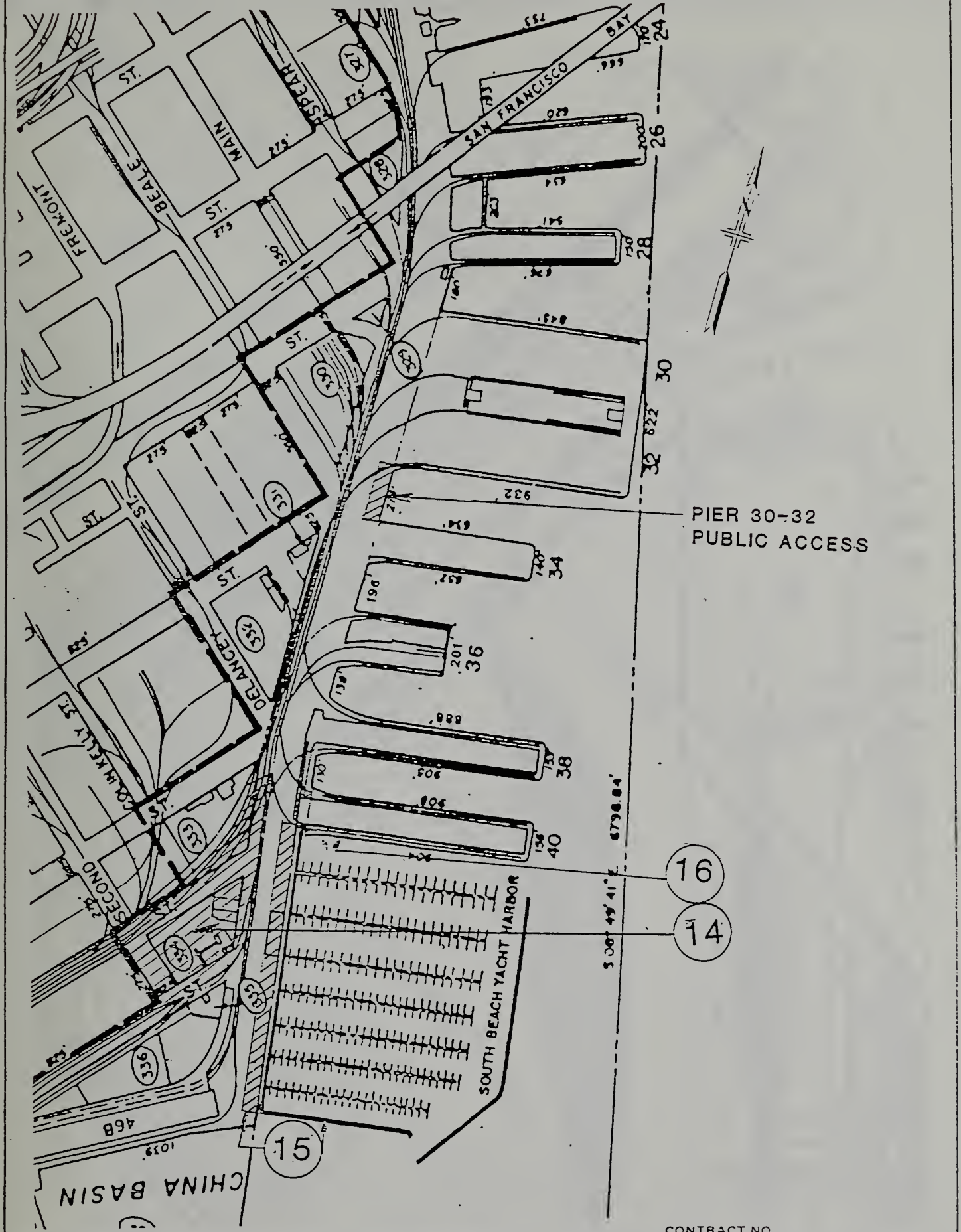

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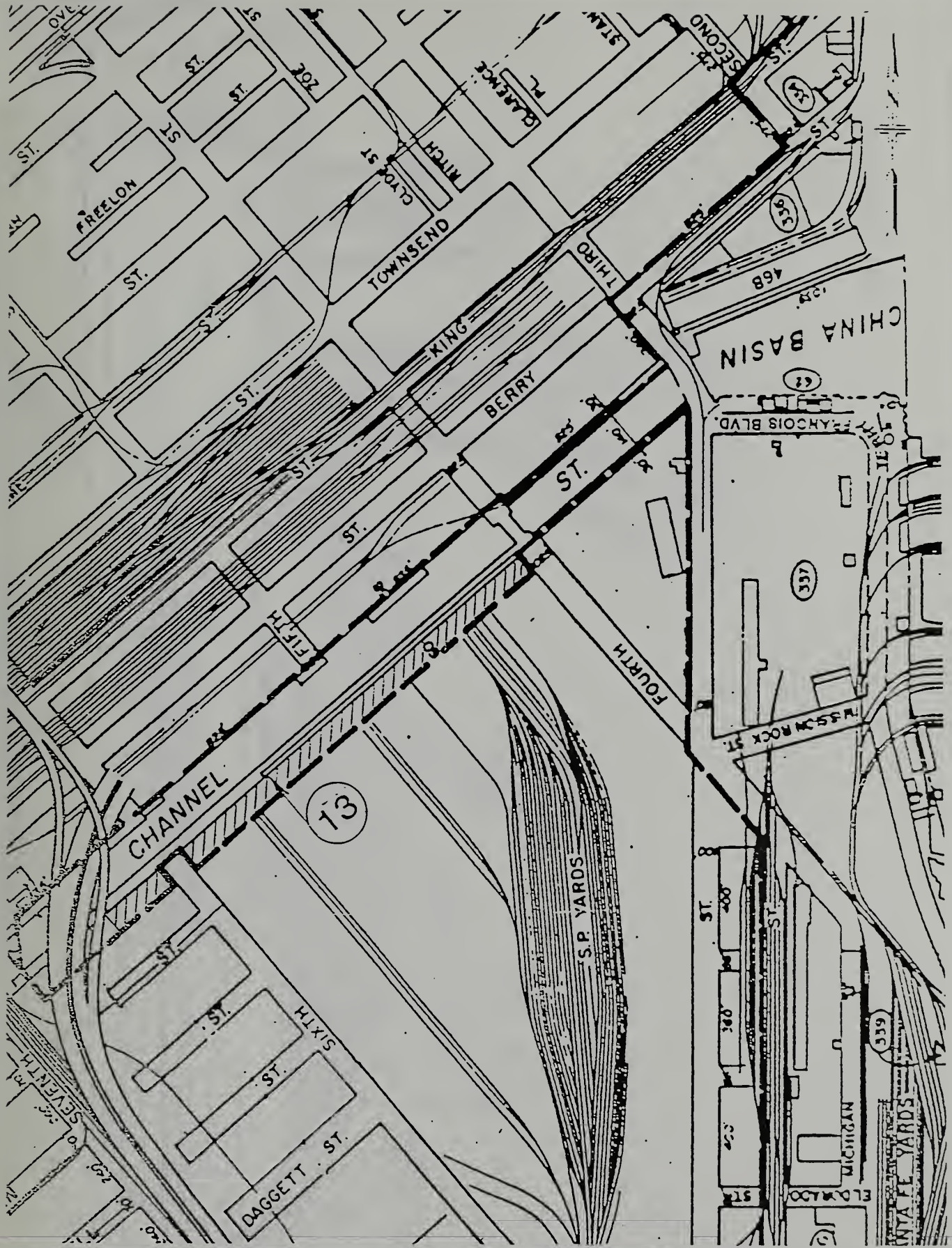

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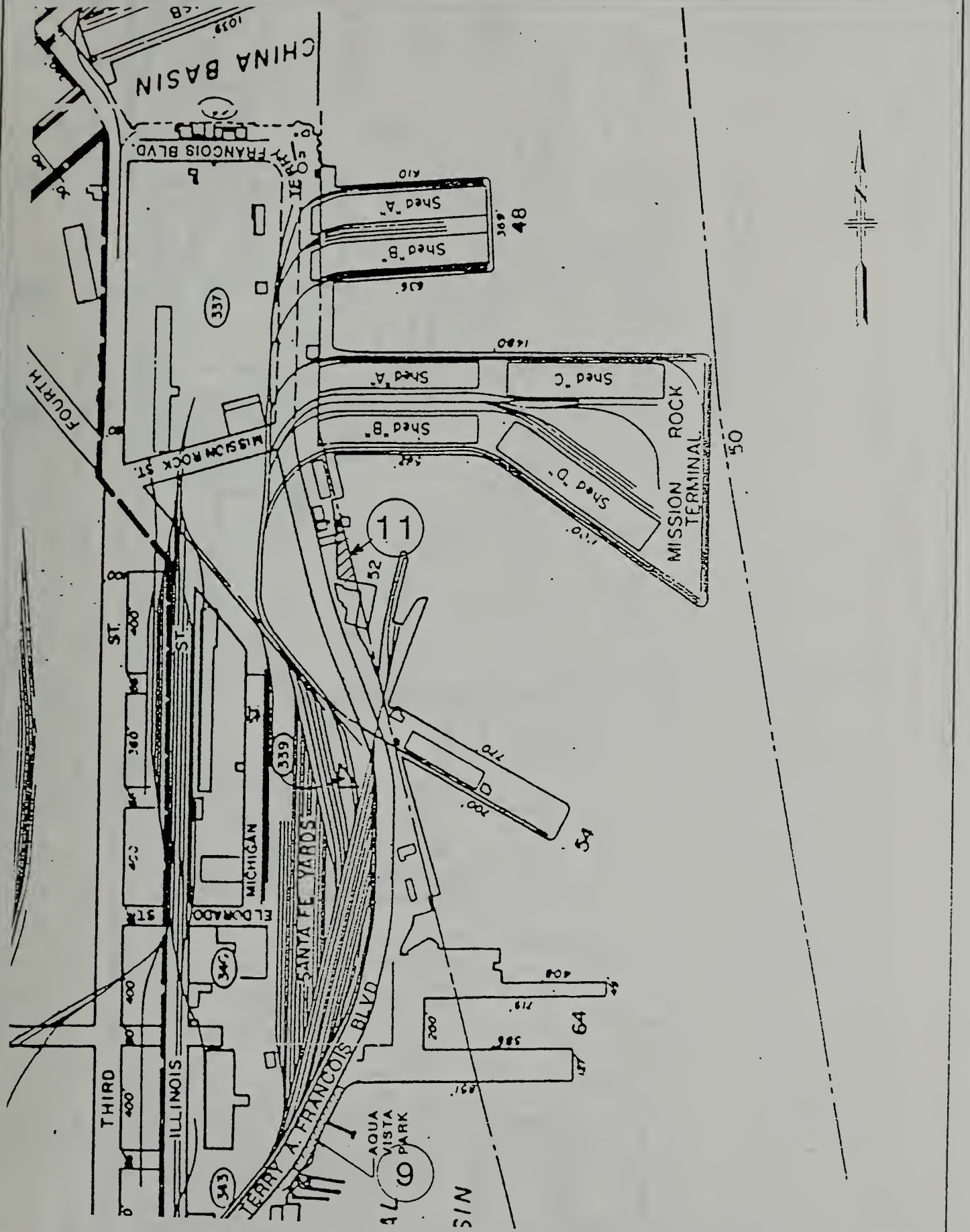

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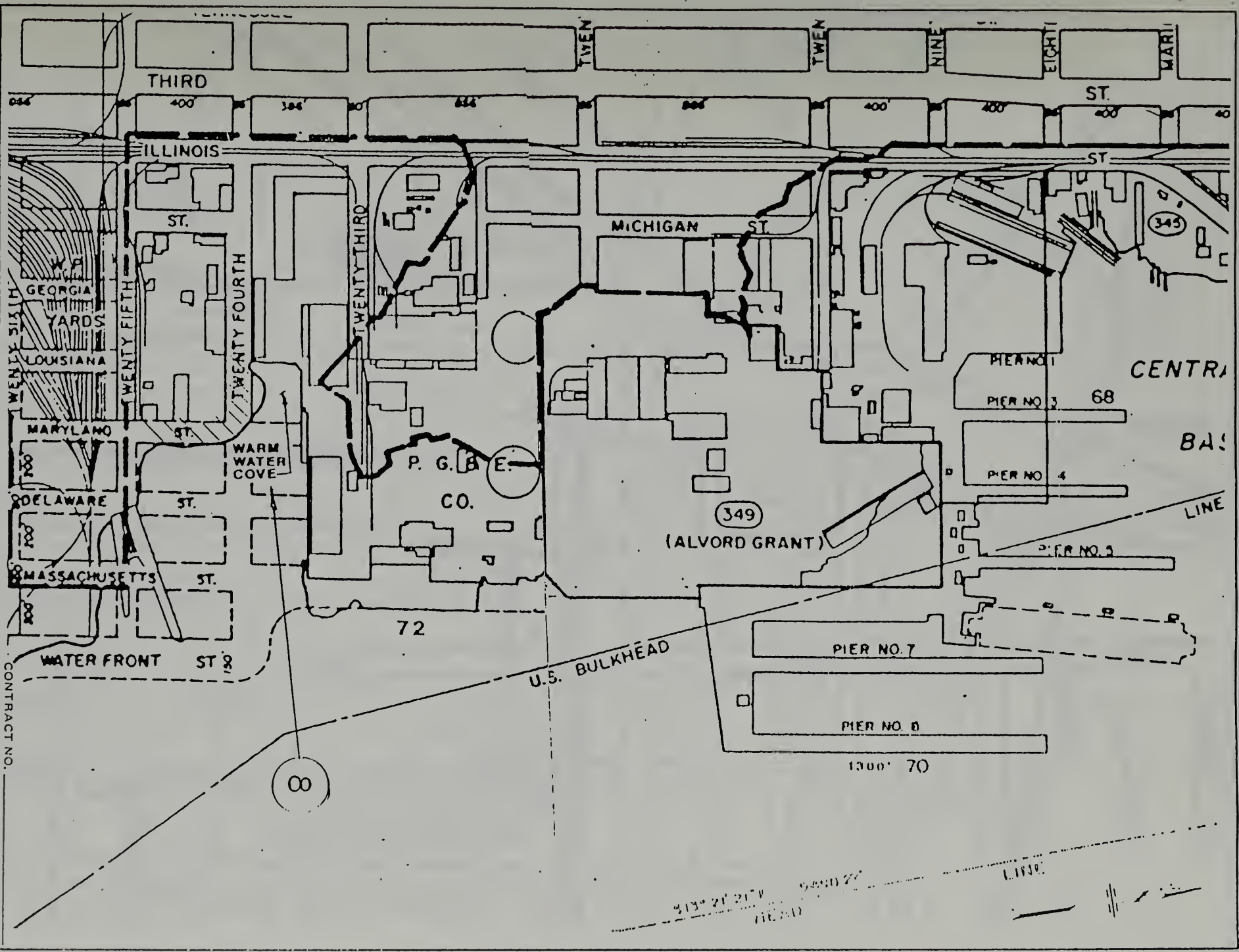

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PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

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PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

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PERMIT AND RESERVATION REGULATIONS
FOR PARKS UNDER PORT COMMISSION JURISDICTION

I. GENERAL INFORMATION

A. AUTHORITY. Under the Burton Act and Charter Section 3.581, the Port has the complete authority to manage, regulate and control the harbor of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of the Port property. Pursuant to this authority, the San Francisco Port Commission has adopted a Port Park Code ("Park Code") regulating activities in designated public access areas to protect visitors from safety hazards, prevent damage to the property and facilitate special event coordination. and perform other regulatory functions for certain public park property ("Parks" or "Park"). Sections 6.5 and 6.19 of the Park Code require that regulations be adopted governing the filing and processing of permits to engage in various activities in Parks, and several other sections of the Park Code allow regulations to be set governing other matters.

B. APPLICABILITY. These Permit and Reservation Regulations ("Regulations") apply in all Parks subject to the Park Code. Where a provision of these Regulations applies only to a certain Park or portion of a Park, that limitation is explicitly noted.

C. DEFINITIONS. Capitalized words or phrases will have the meanings set out in parenthesis when they are first used. For purposes hereof, the term "Commission" shall refer to the San Francisco Port Commission, the Executive Director, or their designee.

II. PROCEDURE FOR OBTAINING ALL PERMITS REQUIRED BY THE PARK CODE

A. APPLICATIONS

1. Deadlines for filing.

(a) Except for permits for events with an expected attendance of 500 or more ("Large Events") and permits for the sale of food or distribution of free food, written application for any permit required by the Park Code must be made to the Commission at least fifteen (15) business days in advance so that the Commission will have adequate time to process requests properly, meet with interested parties, and coordinate with other affected entities.

(b) Written applications for permits for Large Events or for the sale or distribution of free food must be made to the Commission at least thirty (30) business days in advance so that the Commission will have adequate time to prepare for the activity.

(c) The time requirements in this section for advance applications may be waived by the Commission, upon request in writing by the applicant, if the Commission determines that the event or events for which the permit is sought do not reasonably allow an applicant time to file a permit application within the required time or if an unusual event or combination of events renders such requirement an unreasonable restriction on the right of free speech.

2. Contents. Applications must include the following information:

(a) The name, address and telephone number of the applicant;

(b) The name(s) of all sponsoring, participating and/or performing groups;

(c) A description of the activity for which a permit is sought;

(d) The date, starting time, place and the estimated length of time of the event;

(e) The number of persons that are expected to attend and the reasons for anticipating such a number;

(f) For Large Events, an acknowledgment that the granting of the permit is conditioned upon development by the applicant of a transportation management plan detailing measures for minimizing traffic and promoting public transit use, as well as plans for minimizing litter, congestion and noise at the preferred or desired location and the surrounding areas that would be affected by the proposed event;

(g) Where the applicant is an individual, the signature of the applicant, and where the applicant is an entity other than an individual, the signature, name, address and telephone number of the individual executing the application on behalf of the applicant; and

(h) Other relevant information reasonably requested by the Commission.

B. PROCESSING OF APPLICATIONS

1. Time for processing.

(a) Fully completed permit applications for the same desired location will be processed in order of receipt. Revision of an application will not cause an application to lose priority as to the location desired, unless the revision includes a request for a new location.

(b) Fully completed permit applications received less than thirty (30) business days

but more than fifteen (15) business days prior to the date of the proposed event will be processed within ten (10) business days. Such applications will be deemed processed if the approval or denial is mailed to the address contained in the permit application or is communicated orally to the applicant within ten (10) business days after the day it is received. A copy of any written approval or denial of an application will be kept on file by the Commission for at least six (6) months and shall be made available to the applicant upon request.

(c) Fully completed permit applications received thirty (30) business days or more before the date of the proposed activity will be processed as time allows, but in no event will notice of approval or denial be mailed or communicated less than twenty (20) calendar days prior to the date of the proposed activity.

(d) Permit applications received less than fifteen (15) business days in advance will be processed within a reasonable time, provided that the Commission has waived the advance application requirement as set forth in Section II. A. 1 (c) above. At the time that the applicant is notified of such waiver, the Commission will inform the applicant when his or her application is expected to be acted upon.

2. Incomplete applications. An incomplete permit application will be returned to the applicant with an explanation as to why it is incomplete whenever the Commission has insufficient information to enable it to process the application.

3. Notice of denial. Notice of the denial of a permit application will be accompanied by a statement of the grounds upon which the application was denied.

4. Revised applications. If a permit application is revised, the time within which the application must be processed will be computed from the date of the revision.

C. GENERAL CONDITIONS OF PERMITS

1. Basis for conditions on each permit. In order to insure that public enjoyment of the Parks and the public's comfort, convenience, safety and welfare are not disturbed and that public or private property is not damaged, the Commission may impose reasonable conditions on approval of permit applications, including but not limited to, the conditions that the applicant provide debris boxes, chemical toilet units, protective coverings, monitors, transportation management measures and security personnel, and that the applicant ensure that any stage, booth, platform, tent or other erected structure complies with applicable City codes.

2. Publicity. Applicants are hereby advised that any publicity by the applicant before a permit is issued is undertaken at the applicant's own risk.

3. Sound amplification. Applicants are hereby advised that City ordinances

regulate the use of amplified sound and require the issuance of sound amplification permits by the Police Department.

4. Planning with other entities. Prior to issuing a permit, the Commission may consult or require the applicant to consult with the Police Department, Municipal Railway, Fire Department, Health Department, Emergency Ambulance Service, Department of Public Works, Department of City Planning, Bay Conservation and Development Commission, or other relevant public or private entities if any aspect of a permit request requires consent from any such entity. The Commission reserves the right to consult with the Recreation and Park Commission to determine if another park facility in the City is more appropriate to accommodate the proposed event, and, if the alternate park facility is available, to deny a permit.

5. Recycling and parking control. Following any Large Event, the permittee must recycle or cause to be recycled any newspaper, glass or aluminum items generated by the event. The term "recycle" means packaging newspaper, glass and aluminum items separately and making arrangements to have these items delivered to neighborhood recycling centers in the City. In consultation with the Commission, permittees may make other arrangements for the disposal of recyclable items. For Large Events, the Commission may require the applicant to pay an additional fee for the cost of providing parking control for the event.

6. Sales of food or alcohol. The Commission may issue one-day permits for the sale of food products with the approval of the Health Department. All food permits must be filed thirty (30) business days in advance of the event. The Commission may, in its sole discretion, authorize the serving or selling of beer and/or wine under one-day permits so long as the applicant has obtained the necessary approval from the Alcoholic Beverages Commission ("ABC").

7. Health Department and ABC permits. Permittees must secure a proper Health Department Notice to Operate and, if alcohol is involved, a permit from ABC. The ABC permit and the Health Department Notice to Operate must be visibly displayed on each booth or location.

8. Planning meeting. Prior to issuing a permit, the Commission may arrange or require the applicant to arrange a meeting of all public and private entities involved in: (i) any Large Event or (ii) an event which would require special services or permission from the affected public or private entities which cannot be arranged through written or telephone consultation with those entities.

9. Mylar balloons. The sale and use of mylar balloons in Parks are prohibited.

10. Other balloons. All other balloons are allowed, but the permittee must remove them following the event unless the Commission consents to leaving them there. The release of balloons in Parks is prohibited.

11. Fee waiver for nonprofit permittees. The Commission may enter into an agreement with a nonprofit organization seeking to use Parks to waive the applicable use fees in exchange for receiving services that may be provided to the Commission or the City, provided that the value of the fees waived does not exceed the value of the services rendered.

12. Discrimination prohibited. The Commission will process all permits without discrimination with regard to the race, color, religion, ancestry, national origin, age, sex, political affiliation, sexual orientation, or disability of applicants.

13. Structures. Any permittee requesting to erect a stage, booth, platform, tent or other structure must submit an anchoring plan for such structure(s) before the Commission will allow the permittee to bring its equipment into a Park. The anchoring plan must detail the method to be used to secure such structure(s) in place in a safe and stable condition. No Park benches, light standards, trash receptacles, buildings, trees, shrubs or the like may be used for the purpose of securing any structure(s) unless prior written approval is received from the Commission. The Commission may review the anchoring plan prior to any installation of the structures and reserves the right to require changes.

14. Misrepresentation by permittees

(a) Material misrepresentations of fact in an application, in circumstances where the applicant reasonably knew or should have known that assertions in the application were not true, may be considered by the Commission in determining whether the permit application should be denied or revoked because of the applicant's inability to be responsible for the use of a Park in compliance with the Park Code, the Regulations, any other applicable law and any permit conditions imposed by the Commission.

(b) If the Commission has reason to believe that advertising or publicity for an event for which an application is on file or permit has been issued describes or refers to the event in a manner which indicates that the event is different from that described in the application, the Commission may request the applicant or permittee to submit such advertising or publicity material. The Commission will examine the same for the purpose of determining whether there is reason to conclude that the application inaccurately or incompletely describes the planned event. If it so determines, in cases where the permit has not been granted, the Commission will immediately notify applicant of the discrepancy and schedule a meeting to determine whether the applicant must modify its application. In cases where the application has been granted, the Commission may revise the scope of the permit or revoke it in light of the changed circumstances.

D. FEES AND SECURITY DEPOSITS

1. Permit fees. The Fees charged for an event shall reflect the Commission's

costs in preparing for an event, wear and tear on the Park, the income, if any, a permittee intends to earn from the event, the permittee's ability to pay a rental fee, and other factors outlined in the Park Code and these Regulations. The Commission will collect the entire fee from the permittee at the time a permit is issued.

2. Security deposits. The Commission may require security deposits pursuant to a schedule set by the Commission and revised annually to insure that Parks are restored and cleaned at the conclusion of permitted activities.

3. Additional deposits. For Large Events, the Commission may require an applicant to post a deposit in an amount higher than shown on the security deposit schedule, so long as the amount of the deposit is reasonably related to the anticipated costs of restoring or cleaning the park property used in connection with the event.

4. Form of deposit. The security deposit will be in the form of a cashiers check payable to the Commission or other entity designated by the Commission, and must be received no later than the time the permit is issued. The security deposit will be returned after the event as soon as it is determined that every area of a Park used in connection with the event has been cleaned and restored to the same or equivalent condition that existed immediately prior to the permitted event. In no case will the security deposit be returned unless the Park is returned to its prior condition or the permittee has paid the cost of cleaning and restoring the area used in connection with the event.

5. Waiver of security deposit. The Commission may waive or decrease the security deposit normally required if an applicant has a history of using Commission property and has consistently left the property used in good condition and no circumstances exist which indicate that the applicant might fail to restore the Park after the proposed event.

6. Exercise of Constitutional rights. When an applicant for a permit to perform an activity which is protected by the First Amendment to the U.S. or California Constitution and for which a security deposit must be posted produces evidence that providing a security deposit would be impossible or so financially burdensome that it would preclude the applicant from using the Park for the proposed activity, the Commission may accept in its place appropriate written assurances that all necessary measures will be undertaken by applicant to protect the Park against damage, but only if the Commission determines that the measures proposed by the applicant will be performed and will adequately protect the Park.

7. Applicants who have damaged parks. If an applicant has used a Park in the past and has caused damage or injury to property or failed to restore or clean the Park at the conclusion of its activity, the Commission may: (i) deny the permit or (ii) require the applicant to post a security deposit in an amount greater than normally required, so long as the increased amount is

reasonably related to the anticipated costs of restoring or cleaning the Park.

8. Costs of repairs and liquidated damages. In addition to assuming the payment of the direct costs associated with restoring and cleaning a Park following an event, a permittee must acknowledge and agree in writing that some violations of the Park Code or Regulations may result in damages which are extremely difficult to estimate. Such damages include, but are not limited to: the public's lost use of a Park or lost enjoyment of the flora, fauna or vegetation while the Park is being cleaned or restored; increased administrative costs resulting from patrolling the Park; general impairment of the Park environment as a public recreational source; or the loss of future concession revenues from individuals who are discouraged from using the Park as a result of the applicant's violations. Accordingly, in the event a permittee fails to substantially comply with the Park Code, Regulations, or any other permit conditions, permittee shall be liable for liquidated damages in the amount of $250 or twenty-five percent (25%) of the total security deposit, whichever is greater. This liability is in addition to any direct costs associated with cleaning and restoring the Park, for which the permittee is also liable. Any costs for damages assessed by the Commission which cannot be recovered from the security deposit are payable to the Commission upon demand. Permittee has the right to appeal the assessment of liquidated damages to the Commission's Executive Director.

9. Remedies for violations of applicable law, Regulations, and permit conditions. If the permittee fails to comply with the Park Code, the Regulations or any other permit conditions, and the Commission reasonably believes there are risks of serious damage to property or a substantial interference with the use and enjoyment of the Park by other persons, the Commission may issue a warning that any further violations may result in a revision of the conditions of the permit or an order to leave the Park. In addition, the Commission may take any actions reasonably required to protect the Park or the health and safety of the public, and the permittee must reimburse the Commission for its costs incurred in doing so. Following the event, the Commission may issue an order denying the group or organization a permit to use a Park for a period not to exceed one year. However, groups or organizations which only sponsor an annual event will be denied a permit through the following calendar year. In determining the length of time a group or organization will be excluded from the Parks, the Commission will consider only the nature, extent and duration of the violation(s).

E. PERMIT REQUIREMENTS

1. Form of Permit. All permittee's must enter into a written permit with the Commission for use of any Park, in a form approved by the City Attorney, including applicable insurance requirements and indemnifications. A copy of the approved permit form is attached hereto as Exhibit 1.

2. Waiver. The insurance coverage requirements set forth in the permit form may be waived for applicants who propose to engage in an activity protected by the First Amendment to

the U.S. or California Constitution when the applicant produces evidence that complying with those provisions is impossible or so financially burdensome that it would preclude the applicant from using a Park for the proposed activity. However, in no event will the requirement for food products liability coverage be waived when the permittee is selling or distributing food to the general public.

F. REQUIREMENTS FOR ADDITIONAL AUTHORIZATION FOR SPECIFIC ACTIVITIES

1. Sign posting. No signs may be posted on any Park property without written approval of the Commission.

2. Athletic instruction for compensation. Applications pursuant to Park Code Section 2.6 for permits to provide athletic instruction for compensation must be made in writing to the Commission thirty (30) business days before the instruction occurs.

3. Peddling goods, wares or merchandise. Applications pursuant to Park Code Section 2.8 for permits to peddle or vend goods, wares or merchandise must be made to the Commission at least ten (10) business days before such activities take place.

III. LIMITS ON USES OF PARK FACILITIES

A. GENERAL RULES

1. Uses must be consistent with purpose of facilities. Any portions of Parks serving a specific function may not be the site of any event which, in the reasonable judgment of the Commission, would conflict with what is intended as that portion's primary functions.

2. Multiple day permits. Multiple day events may be considered for permits based on the nature of the event, the proposed location, the anticipated attendance and any other facts and circumstances that relate to any potential adverse impact on the Parks, the neighborhood or the public.

B. SPECIFIC RESTRICTED ACTIVITIES

1. Camping. No permits for camping or housing accommodations may be granted.

2. Sleeping overnight. No permits for sleeping overnight may be granted.

3. Distribution of free food. Pursuant to Park Code Section 6.3(J), a permit is required to provide free food to persons in Parks. The Commission has established these provisions to govern such permits:

(a) Except as provided in Section III. 7. (b), without a permit from the

Commission as set forth below, no person may distribute, provide or sell food to the general public in a Park.

(i) The Commission may approve a permit application for the distribution, provision or sale of food to the general public when the proposed activity takes place in conjunction with an indoor facility adjacent to a Park or is in connection with a permitted recreational activity in a Park.

(ii) Applications for the distribution, provision or sale of food not subject to subsection (a) above may be approved only with the consent of the Executive Director of the Commission.

(b) A permit to provide food to persons in a Park is not required when a person participating in a picnic or social gathering of 25 or fewer persons provides food to others who are also participating in that picnic or social gathering. This exception shall not be construed to allow any person to use a Park, without a permit, as a mobile or stationary kitchen, eating establishment, restaurant or similar purpose to provide or sell food to the general public.

IV. APPEAL PROCEDURE

1. Written request for appeal. Any applicant or permittee may appeal the denial of a permit application, revocation of a permit or subsequent assessment of liquidated damages, by mailing or delivering a written request for an informal hearing with the Executive Director of the Commission. The request must state succinctly the grounds upon which it is asserted that the determination of the Commission should be modified or reversed.

2. Informal hearing. The Executive Director will schedule an informal hearing with the applicant or permittee to be held within fifteen (15) calendar days of Executive Director's receipt of the written request.

3. Scope of review. The Executive Director will afford the applicant or permittee an opportunity for an informal hearing and may reverse, affirm or modify in any regard the initial determination. When the Executive Director affirms the denial of a permit application or revocation of a permit, such a decision must be based on one or more of the reasons listed in Section 7.07 of the Park Code.

4. Written reasons for decision. The Executive Director will give the applicant or permittee written notice of his or her decision within three (3) business days after the hearing. Such notice will be mailed to the applicant or permittee at the address contained in the request for a hearing or, if none, in the permit application. The Commission will keep a copy of the notice on file to be made available to the applicant upon request. When the Executive Director issues a ruling

adverse to the applicant or permittee, the Executive Director must include within the written notice to the applicant or permittee the reasons for the decision and specific findings of fact on which the decision is based.

V. REVIEW AND MODIFICATION OF REGULATIONS

The City Attorney and appropriate Commission program staff will conduct an annual review of these Regulations and ascertain whether they maintain the proper balance between the recreational, constitutional and property interests of the public heretofore mentioned, as well as the Commission's substantial interests in preserving the Parks and limiting excessive noise, congestion and police problems. In addition to the annual review, the City Attorney may make recommendations for changes in these Regulations from time to time as he or she deems necessary.

pkregs10

EXHIBIT 1

PERMIT FORM

SAN FRANCISCO PORT COMMISSION

FERRY BUILDING

SAN FRANCISCO, CA 94111

LICENSE TO USE PROPERTY

Licensee:

Licensee address: _____

Attn: _____

Activity:

Contact:

Activity Date(s): _____ **[If month-to month, add the following:** This License may be terminated by either party upon thirty (30) days' prior written notice.**] [If applicable, add the following: Permitted acknowledges that Port may require the use of the License Area during the term hereof for special events, parking or other activities. In such event, Port reserves the right to revoke this License upon 24 hours notice. In the event Port exercises its right to revoke hereunder, Port shall make reasonable efforts to relocate Licensee to a substantially similar location.]**

Location: _____ ("License Area")

License Fees **(Section 3)**: _____

Security/Cleaning Deposit (**Section 5**): amount: _____

Port Utilities and Services (**Section 9.a, 9.b**):

Port Maintenance Responsibilities (**Section 9.c**):

Cure Period: ___ days (**Section 13(a)(2)**)

Mineral Reservation (**Section 21**): California Grid System, Zone 3, Beginning at a point where X equals_____ and Y equals_____ extending 2,500 feet south, thence 15,00 feet east, thence 2,500 feet north and thence 1,500 feet west, ending at said point of beginning.

Address for notices to Licensee (**Section 12**):

_____

_____

_____

Attn: _____

Address for notices to Port:

Port of San Francisco

Room 3100 Ferry Building

San Francisco, CA 94111

Attn: Director, Tenant and Maritime Services

Name/Address of Agent for Service for Process, if Licensee is a Corporation:_____

Driver's License No. If Licensee is an individual:_____

This License is entered as of this ____ day of ____, 19___, by and between the City and County of San Francisco, a municipal corporation ("City"), operating by and through the San Francisco Port Commission ("Port"), and Licensee, who agree as follows:

1. **Basic License Information**: The Basic License Information that appears on the preceding pages of this License is hereby incorporated by reference into this License and shall become part of the terms and conditions hereof.

2. **Grant of License.** The SAN FRANCISCO PORT COMMISSION, in consideration of the stated conditions and agreements, hereby grants permission to Licensee to carry on the above-stated activity in the time, place and manner set forth herein. The parties acknowledge that the relationship created hereby is that of a license granting Licensee a privilege to perform the activities permitted hereunder upon Port property. The parties further acknowledge that this License is revocable by Port pursuant to the terms hereof, and does not convey to Licensee an exclusive right to possession of the License Area.

3. **Fees.** Licensee shall pay the License Fees set forth in the Basic License Information on or before the first day of the Activity Date set forth in the Basic License Information, and thereafter if applicable, upon the first day of each month during the term of this License.

4. **Late Charges**. Licensee acknowledges that late payment by Licensee to Port of License fees due hereunder will cause Port increased costs not contemplated by this License, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, a fee equivalent to one and one-half percent (1-1/2%) of all License fees, or any portion thereof, which is due and unpaid for more than thirty (30) days will be paid by Licensee for each month that such License Fees, or any portion thereof, remains due and unpaid, plus reasonable attorneys' fees incurred by Port by reason of Licensee's failure to pay License Fees when due under this License. Late Charges shall be computed from the date on which such License Fees first became due. The parties agree that such Late Charges represent a fair and reasonable estimate of the cost which Port will incur by reason of any late payment by Licensee.

5. **Security Deposit**. Licensee shall pay to Port on or before the first Activity Date hereof, in addition to the advance payment of the License Fees, the security deposit, in cash, in the sum specified in the Basic License Information, as security for the faithful

performance by Licensee of all terms, covenants and conditions of this License. Licensee agrees that Port may (but shall not be required to) apply the security deposit in whole or in part to (a) pay any sum due to Port under this License; (b) compensate Port for any damage to the License Area caused by Licensee; or (c) cure any default by Licensee. If Port uses any portion of the security deposit to cure any default by Licensee hereunder, Licensee shall immediately replenish the security deposit to the original amount. Port's obligation with respect to the security deposit is solely that of debtor and not trustee. Licensee shall not be entitled to any interest on such deposit. If Licensee is not in default at the termination of this License, Port shall return the unused balance of the security deposit to Licensee after Licensee vacates the License Area. The amount of the security deposit shall in no way limit Licensee's obligations under this License, and nothing contained in this section shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this License or provided by law or equity.

6. Activity. If the Basic License Information limits the times and location of the activities permitted hereunder, then Licensee shall not conduct the activity at times and locations other than at the times and locations hereinabove specified unless express permission is granted.

7. Use. Licensee shall not use Port property in any manner that will constitute waste, nuisance or unreasonable annoyance to Port, its tenants or the owners or occupants of adjacent properties. Licensee's operations hereunder shall not interfere with Port's use of its property. Operations hereunder must not obstruct traffic. Persons subject to this License must comply with the directions of the San Francisco Police Department and Fire Department in connection therewith.

8. Compliance with Laws and Regulations. Licensee, at Licensee's sole cost and expense, promptly shall comply with all laws, statutes, ordinances, resolutions, regulations, judicial decisions, proclamations, orders, decrees or policies of any municipal, county, state or federal government or the departments, courts, commissions, boards and officers thereof, or other governmental or regulatory authority with jurisdiction over the Licensee and the License Area or any portion thereof, including without limitation, the Port (collectively, "Laws") relating to or affecting the condition, use or occupancy of the License Area in effect either at the time of execution of this License or which may hereafter be in effect at any time during the term hereof, whether or not the same are now contemplated by the parties.

9. Utilities, Services and Repairs.

a. Utilities. Licensee shall make arrangements and shall pay all charges for all utilities to be furnished on, in or to the Premise or to be used by Licensee, including, without limitation, gas, electrical, water, sewer and telecommunication services. Licensee shall pay all charges for said utilities, including charges for the connection and installation of the utilities.

b. Services. Licensee shall make arrangements and shall pay all charges for all services to be furnished on, in or to the License Area or to be used by Licensee, including, without limitation, garbage and trash collection, janitorial service and extermination service.

c. Maintenance and Repairs. Except as otherwise provided in the Basic License Information, Licensee shall at all times during the term of this License, and at its sole cost and expense, maintain and repair in good and working order, condition and repair the License Area and all improvements and alterations thereon. Port shall not be obligated to make any repairs, replacement or renewals of any kind, nature or description whatsoever to the License Area nor to any improvements or alterations now or hereafter located thereon. In the event that Licensee, its Agents or Invitees cause any damage (excepting ordinary wear and tear) to the License Area, Port may repair the same at Licensee's expense and Licensee shall immediately reimburse Port therefor.

10. Taxes and Assessments. Licensee agrees to pay to the proper authority any and all taxes, assessments and similar charges on the License Area in effect at the time this License is entered into, or which become effective thereafter, including all taxes levied or assessed upon the possession, use, or occupancy, as distinguished from the ownership to the License Area. Licensee, on behalf of itself and any permitted successors and assigns, recognizes and understands that this License may create a possessory interest subject to property taxation and that Licensee, and any permitted successor or assign may be subject to the payment of such taxes. Licensee, on behalf of itself and any permitted successors and assigns, further recognizes and understands that any assignment permitted hereunder and any exercise of any option to renew or extend this License may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder.

11. Insurance.

a. Licensee shall maintain throughout the term of this License, at Licensee's expense, insurance as follows:

(1) Workers' Compensation insurance, including Employers' liability with limits not less than $1,000,000 each accident;

(2) Comprehensive or Commercial General Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Advertising Liability, Liquor Liability, Independent Contractors, Explosion, Collapse and Underground (XCU), Broadform Property Damage, Sudden and Accidental Pollution, Products Liability and Completed Operations;

(3) Comprehensive or Business Automobile Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired automobiles, as applicable;

b. Should any of the required insurance be provided under a claims-made form, Licensee shall maintain such coverage continuously throughout the term of this License, and, without lapse, for one year beyond the License expiration, to the effect that, should occurrences during the License term give rise to claims made after expiration of the License, such claims shall be covered by such claims-made policies.

c. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be not less than double the occurrence limits specified above.

d. Liability policies shall be endorsed to name as additional insureds the City and County of San Francisco, the San Francisco Port Commission, and their officers, directors, employees and Agents.

e. All policies shall be endorsed to provide the following:

(1) Thirty (30) days prior written notice of cancellation, non-renewal or reduction in coverage or limits to:

Port of San Francisco

Suite 3100, Ferry Building

San Francisco, CA 94111

(2) That such insurance is primary to any other insurance available to the additional insureds with respect to claims covered under the policy and that insurance applies separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

f. Before commencement of activities under this License, certificates of insurance, in form and with insurers acceptable to City, shall be furnished, with complete copies of policies to City promptly upon request.

g. **Waiver of Subrogation Rights**. The parties release each other, and their respective authorized representatives, from any claims for damage to the License Area or to the fixtures, personal property, improvements or alterations of either Port or Licensee in or on the License Area which are caused by or result from risks insured against under any property insurance policies carried by the parties and in force at the time of any such damage, to the extent such claims for damage are paid by such policies. Each party shall cause each property insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against the other party in connection with any damage covered

by any policy.

12. Notices. All notices, demands, consents or approvals which are or may be required to be given by either party to the other under this License shall be in writing and shall be deemed to have been fully given when delivered in person to such representatives of Port and Licensee as shall from time to time be designated by the parties for the receipt of notices, or when deposited in the United States mail, postage prepaid, and addressed, to Port or Licensee at the addresses designated in the Basic License Information, or such other address with respect to either party may from time to time designate by notice to the other given pursuant to the provisions of this Paragraph.

13. Default by Licensee.

a. Event of Default. The occurrence of any one or more of the following events shall constitute a default by Licensee:

(1) Failure by Licensee to pay when due any License fees and/or all other charges due hereunder; or

(2) Failure to perform any other provisions of this License, if the failure to perform is not cured within the Cure Period set forth in the Basic License Information after notice has been given by Port to Licensee. If the default cannot reasonably be cured within the Cure Period, Licensee shall not be in default of this License if Licensee commences to cure the default within the Cure Period, and diligently and in good faith continues to cure the default.

b. Port's Remedies. Upon default by Licensee, Port shall, without further notice or demand of any kind to Licensee or to any other person, and in addition to any other remedy Port may have at law or in equity, have the ability to terminate this License and Licensee's right to use the License Area.

14. Indemnity and Exculpation.

a. Indemnity. Licensee shall indemnify and hold Port, City, and their

Agents, officers, directors, contractors and employees (collectively, "Agents") harmless from, and, if requested, shall defend them against any and all claims, direct or vicarious liability, damage, injury or loss arising directly or indirectly out of: (a) any injury to or death of any person, including employees of Licensee, or damage to or destruction of any property occurring in, on or about the License Area, or any part thereof, from any cause whatsoever, (b) any default by Licensee in the observance or performance of any of the terms, covenants or conditions of this License, (c) the use, occupancy or condition of the License Area or the activities therein by Licensee, its Agents, or clients, customers, invitees, guests, members, licensees, and assignees (collectively, "Invitees") activities therein or (d) any release or discharge, or threatened release or discharge, of any substance, waste or material which now or in the future is determined by any state, federal, or local governmental authority to be capable of posing a present or potential risk of injury to health, safety, the environment or property (collectively, "Hazardous Material") caused or allowed by Licensee in, under, on or about the License Area, or into the environment. This indemnity shall be enforceable regardless of the negligence of Port or City, and regardless of whether liability without fault is imposed or sought to be imposed on Port or City. This indemnity shall be enforceable except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on, or validly retroactive to, the date of this License. This indemnity includes all such loss, damage, injury, liability or claims as described above, loss predicated in whole or in part, upon active or passive negligence of Port, City or their Agents. This indemnity shall exclude claims, liability, damage or loss resulting solely and exclusively from the wilful misconduct of Port or City which is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on, Licensee, its Agents or Invitees.

In addition to Licensee's obligation to indemnify Port and City, Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend Port and City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent. Licensee's obligation to defend shall arise at the time such claim is tendered to Licensee by Port and/or City and shall continue at all times thereafter.

The foregoing indemnity obligation of Licensee shall include without limitation, indemnification from all loss and liability, including attorney's fees, court costs and all other litigation expenses. This indemnification by Licensee shall begin from the first notice that any claim or demand is or may be made. The provisions of this section shall survive the termination of this License with respect to any damage, destruction, injury or death occurring prior to such termination.

b. **Exculpation**. Licensee, as a material part of the consideration to be rendered to Port, hereby waives any and all claims against Port, City and their Agents, and agrees to hold Port, City and their Agents harmless from any claims for damages to goods, wares, goodwill, merchandise, equipment, business opportunities and persons in, upon or about said License Area for any cause arising at any time, including without limitation all claims arising from the joint or concurrent negligence of Port or City or their Agents, but excluding any intentionally harmful acts committed solely by Port or City.

15. **Hazardous Materials.**

a. **Requirements for Handling**. Neither Licensee nor its Agents or Invitees, shall use, generate, process, produce, package, treat, store, emit, discharge or dispose (collectively, "Handle") in, on or about the License Area any Hazardous Materials without the prior written consent of Port, which consent shall not be unreasonably withheld so long as Licensee demonstrates to Port's reasonable satisfaction that such Hazardous Material is necessary to Licensee's business, will be Handled in a manner which strictly complies with all Laws and will not materially increase the risk of fire or other casualty to the License Area. Notwithstanding the foregoing, Licensee may Handle on the License Area janitorial or office supplies or materials in such limited amounts as are customarily used for general office and janitorial purposes so long as such Handling is at all times in full compliance with all Laws.

b. **Licensee Responsibility**. Subject to the restrictions set forth in Section 15.b above, Licensee shall Handle all Hazardous Materials discovered on the License Area during the Term of this License or introduced on the License Area by Licensee, its Agents or Invitees, in compliance with all Laws. Licensee shall not be responsible for the safe Handling of Hazardous Materials introduced on the License Area during the term of this License by City, Port or their Agents. Licensee shall protect its employees and the general public in accordance with all Laws. Port may from time to time request, and Licensee shall be obligated to provide, information reasonably adequate for Port to determine that any and all Hazardous Materials are being Handled in a manner which complies with all Laws. Port shall have the right to inspect the License Area for Hazardous Materials at reasonable times, pursuant to its rights of entry provided for hereunder.

c. **Requirement to Remove**. Prior to termination of this License, Licensee, at its sole cost and expense, shall remove any and all Hazardous Materials introduced in, on, under or about the License Area by Licensee, its Agents or Invitees. Further, Licensee, at its sole cost and expense, shall remove any Hazardous Material

discovered on the License Area during the term of this License which is required to be removed by any governmental agency, including Port; provided however, that Licensee shall not be obligated to remove any Hazardous Material introduced onto the License Area during the term of this License by the City, Port or their Agents.

16. Port's Entry on License Area.

a. Entry for Inspection. Port and its authorized Agents shall have the right to enter the License Area without notice at any time during normal business hours of generally recognized business days, provided that Licensee or Licensee's Agents are present on the License Area, for the purpose of inspecting the License Area to determine whether the License Area are in good condition and whether Licensee is complying with its obligations under this License, and to perform any necessary maintenance, repairs or restoration to the License Area, or to perform any services which Port has the right or obligation to perform.

b. Emergency Entry. Port may enter the License Area at any time, without notice, in the event of an emergency. Port shall have the right to use any and all means which Port may deem proper in such an emergency in order to obtain entry to the License Area. Entry to the License Area by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of the License Area, or an eviction of Licensee from the License Area or any portion of them.

c. No Liability. Port shall not be liable in any manner, and Licensee hereby waives any claim for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, including without limitation any abatement or reduction in License fees due hereunder, arising out of Port's entry onto the License Area as provided in this Section 16, except damage resulting solely from the active negligence or willful misconduct of Port or its authorized representatives.

d. Non-Disturbance. Port shall use its best efforts to conduct its activities on the License Area as allowed in this section, in a manner which, to the extent reasonably practicable, will cause the least possible inconvenience, annoyance or disturbance to Licensee.

17. Improvements and Alterations.

a. Licensee shall not make, nor suffer to be made, alterations or

improvements to the License Area (including the installation of any trade fixtures affixed to the License Area or whose removal will cause injury to the License Area) without the prior written consent of Port. Without limiting the foregoing, Licensee shall not make, nor cause or suffer to be made, any Alterations or Improvements to the License Area until Licensee shall have procured and paid for all Regulatory Approvals required to be obtained for such alterations and improvements, including, but not limited to, any building or similar permits required by Port or its Chief Harbor Engineer in the exercise of its jurisdiction with respect to the License Area.

b. Improvements Part of Realty. All alterations or improvements to the License Area made by or on behalf of Licensee which may not be removed without substantial injury to the License Area shall become part of the realty, shall be owned by Port and shall, at the end of the term hereof, remain on the License Area without compensation to Licensee, unless Port first waives its right to the Alterations or Improvements in writing. Notwithstanding the foregoing, Port at its option, can require Licensee to any alterations and improvements at Licensee's sole expense regardless of whether title has or has not vested in Port, and regardless of whether consent was, or was not given. Licensee shall repair any damage occasioned by such removal at Licensee's sole cost and expense.

18. Suitability; Acceptance. Licensee acknowledges that Port has made no representations or warranties concerning the License Area, including without limitation, the seismological condition thereof. By taking possession of the License Area, Licensee shall be deemed to have inspected the License Area and accepted the License Area in an "As-Is" condition and as being suitable for the conduct of Licensee's activity thereon.

19. Surrender. Upon termination of this License, Licensee shall surrender to Port the License Area and all improvements thereon in good condition (except for ordinary wear and tear) except for Improvements and alterations which Licensee has the right to remove or is obligated to remove under the provisions of this License. On or before the termination date hereof, Licensee shall remove all of its personal property and shall perform all restoration made necessary by the removal of any improvements, alterations or Licensee's personal property.

Port may elect to retain or dispose of any improvements or Licensee's personal property which Licensee does not remove from the License Area as allowed or required by this License by giving at least ten (10) days' prior written notice of such election to Licensee. Licensee waives all claims against Port for any damage to Licensee resulting from Port's

retention or disposition of any improvements, alterations or Licensee's personal property. Licensee shall be liable to Port for all costs incurred by Port for storing, removing or disposing of any improvements, alterations or Licensee's personal property.

If Licensee fails to surrender the License Area as required by this section, Licensee shall hold Port harmless from all damages resulting from Licensee's failure to surrender the License Area, including, but not limited to, claims made by a succeeding Licensee resulting from Licensee's failure to surrender the License Area

20. Attorney's Fees..

a. **Litigation Expenses**. If either party hereto brings an action or proceeding (including any cross-complaint or counterclaim) against the other party by reason of a default, or otherwise arising out of this License the prevailing party in such action or proceeding shall be entitled to recover from the other party its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "Prevailing party" within the meaning of this section shall include, without limitation, a party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other party of its claim or defense.

b. **Appeals**. Attorneys' fees under this section shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal.

c. **City Attorney**. For purposes of this License, reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. If Port or Licensee commences an action against the other party arising out of or in connection with this License, the prevailing party shall be entitled to have and recover from the losing party reasonable attorney's fees and costs of suit.

21. Mineral Reservation. The State of California, pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral

deposits, including oil and gas deposits, on or underlying the License Area. In accordance with the provisions of said Statutes, Port and Licensee shall and hereby do grant to the State of California the right to explore, drill for and extract said subsurface minerals, including oil and gas deposits, from the Mineral Reservation area located by the California Grid System as more particularly described in the Basic License Information.

22. Time is of the Essence. Time is of the essence as to each and every provision of this License.

23. City Requirements.

a. Non-Discrimination. Licensee shall not, in the operation and use of the Premises, discriminate against any person or group of persons solely because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability or acquired immune deficiency syndrome (AIDS) or AIDS related condition (ARC). The provisions of Chapters 12B and 12C of the San Francisco Administrative Code, relating to nondiscrimination by parties contracting with the City and County of San Francisco, are incorporated herein by this reference and made a part hereof as though fully set forth herein. Licensee agrees to comply with all provisions of such Chapters 12B and 12C that apply to licensees of real property of the City and County of San Francisco.

b. MacBride Principles-Northern Ireland. City urges companies doing business in Northern Ireland to move towards resolving employment inequities and encourages such companies to abide by the MacBride Principles. City urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

c. Tropical Hardwood Ban. City urges Licensee not to import, purchase, obtain, or use for any purpose, any tropical hardwood or tropical hardwood product.

d. Tobacco Products Advertising Ban. Licensee acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the City, including the property which is the subject to this License. This prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement

sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

24. Miscellaneous Provisions.

a. California Law. This License shall be construed and interpreted in accordance with the Laws of the State of California and City's Charter.

b. Entire Agreement. This License contains all of the representations and the entire agreement between the parties with respect to the subject matter of this agreement. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to such subject matter are superseded in total by this License. No prior drafts of this License or changes from those drafts to the executed version of this License shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this License.

c. Amendments. No amendment of this License or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

d. Severability. Except as is otherwise specifically provided for in this License, invalidation of any provision of this License, or of its application to any person, by judgment or court order, shall not affect any other provision of this License or its application to any other person or circumstance, and the remaining portions of this License shall continue in full force and effect, unless enforcement of this License as invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purposes of this License.

e. No Party Drafter; Captions. The provisions of this License shall be construed as a whole according to their common meaning and not strictly for or against any party in order to achieve the objectives and purposes of the parties. Any caption preceding the text of any section, paragraph or subsection or in the table of contents is included only for convenience of reference and shall be disregarded in the construction and interpretation of this License.

f. Singular, Plural, Gender. Whenever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, and vice versa.

g. Successors. The terms, covenants, agreements and conditions set forth in this License shall bind and inure to the benefit of Port and Licensee and, except as otherwise provided herein, their personal representatives and successors and assigns.

h. Counterparts. For convenience, the signatures of the parties to this License may be executed and acknowledged on separate pages which, when attached to this License, shall constitute this as one complete License. This License may be executed in any number of counterparts each of which shall be deemed to be an original and all of which shall constitute one and the same License.

i. Waiver. No failure by Port to insist upon the strict performance of any obligation of Licensee under this License or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of full or partial License fees during the continuance of any such breach shall constitute a waiver of such breach or of Port's rights to demand strict compliance with such term, covenant or condition. Port's consent to or approval of any act by Licensee requiring Port's consent or approval shall not be deemed to waive or render unnecessary Port's consent to or approval of any subsequent act by Licensee. Any waiver by Port of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this License.

j. Authority. Each of the persons signing this License on behalf of the Licensee does hereby covenant and warrant that Licensee has full right and authority to enter into this License, and that each and all of the persons signing on behalf of the Licensee are authorized to do so.

IN WITNESS WHEREOF, PORT and Licensee execute this License at San Francisco, California, as of the date set forth above.

"Licensee"

FRANCISCO

"Port"

CITY AND COUNTY OF SAN

a municipal corporation,

operating through the

SAN FRANCISCO PORT COMMISSION

By_____

_____

Print Name

Title: _____

By: _____

_____

Director, Tenant and Maritime Services

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

April 3, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Port staff representative to attend the American Industrial Hygiene Conference and Exposition in Washington, D.C.

DIRECTOR'S RECOMMENDATION: APPROVE THE TRAVEL REQUEST

On May 20-24, 1996, the annual national industrial hygiene conference will take place in Washington, D.C. The program will address a number of issues important to the environmental, health and safety programs at the Port. The issues include technical and regulatory updates, and enhancement of environmental, safety and health management.

Attendance at this seminar by a representative of the Port's Environmental and Safety Section will enhance the quality of our environmental, health and safety programs. Port Commission approval is therefore sought for the Port's Industrial Hygienist to travel to this seminar and represent the Port of San Francisco. This request is in accordance with the Port's Fiscal Year 1995/96 budget.

Prepared by: Cliff Jarrard
Chief Harbor Engineer

THIS PRINT COVERS CALENDAR ITEM NO. 9A

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-36

WHEREAS, the Executive Director is requesting authorization for one Port representative to travel to Washington, D.C. for the American Industrial Hygiene Conference and Exposition to be held on May 20-24, 1996; and

WHEREAS, attendance at this seminar will enhance the environmental, health and safety programs at the Port; and

WHEREAS, the cost of this trip is included in the Port Commission's Fiscal Year 1995-96 budget; now, therefore, be it

RESOLVED, that the Port Commission hereby approves this travel request.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 9, 1996.

_____
Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

March 29, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of travel for one Port representative to attend the American Association of Port Authorities Spring Legislative Conference in Washington, D.C. (April 1-3, 1996)

From April 1-3, 1996, the American Association of Port Authorities (AAPA) will holds its Spring Conference in Washington, D.C. to discuss pending legislative proposals. This conference is well attended by Port Directors and senior managers. The AAPA staff has requested the participation of the Port of San Francisco because there will be discussion regarding alternative proposals for changing the Passenger Services Act. As the Commission is aware, our Port has taken the lead with other ports and tourism organizations in pursuing changes that will be meaningful and result in the creation of a new market niche for the Port's cruise business.

We will also seize this opportunity to meet with Congressional staff and administration representatives on this issue and other projects of importance to the Port. The estimated cost of the trip is:

Airfare to Washington Dulles Airport	$844.00
Conference Registration	225.00
Hotel (3 nights at $170/night, inc. tax)	376.50
Transportation	120.00
Meals	120.00
Telephone/Faxes	40.00
Total	$1,725.00

Funds for this trip are available in the Port's Fiscal Year 95-96 budget.

Prepared by: Veronica Sanchez
Manager, Governmental Affairs

THIS PRINT COVERS CALENDAR ITEM NO. **9B**

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-37

WHEREAS, the Executive Director is requesting authorization for one Port representative to attend the Spring Conference of the American Association of Port Authorities, Washington, D.C (April 1-3, 1996) in accordance with the Fiscal Year 1995-1996 budget for the purpose of representing the Port at discussions related to proposed legislation to open up new markets for the Port's cruise business in domestic itineraries; and

WHEREAS, the cost of this trip has been included in the Port Commission's Fiscal year 1995-1996 budget; now, therefore, be it

RESOLVED, that the Port Commission hereby approves this travel request.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of April 9, 1996.

Secretary

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

April 3, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey, Executive Director DPB

SUBJECT: Approving a declaration of emergency for repairing damage to Paceco Container Crane No.1112 at Pier 80

DIRECTOR'S RECOMMENDATION: APPROVE THE DECLARATION OF AN EMERGENCY TO ALLOW CONTRACTORS TO ASSIST PORT STAFF WITH THE REPAIR OF DAMAGED PACECO CRANE NO. 1112 AT PIER 80

On March 7, 1996, while Pier 80 Paceco Crane No. 1112 was undergoing certification testing, the boom hoist wire rope broke. The crane sustained damage and was partly derailed from its tracks. Further, the boom was fully extended and overhung the shipping channel. This accident created a health and safety hazard, particularly to navigation from the disabled boom overhanging the shipping channel.

The Port immediately enlisted Paceco Corporation to determine the cause of failure, to assist with identifying the scope of repair and to assist with the repair oversight. The magnitude of scope of repair was beyond the capabilities of the Port's maintenance staff. Once the scope of repair was determined, the Port solicited competitive quotes and selected Rigging International to perform the repair work at a cost of $82,000. Because additional damage may be discovered during repairs, it is requested that an additional $12,000 must be available as a contingency for possible contact modifications.

Prepared by: Cliff Jarrard,
Chief Harbor Engineer

THIS PRINT COVERS CALENDAR ITEM NO. 9C

I:\wp51\agd-1112.sz

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-_____

WHEREAS, the Port-owned Paceco container crane # 1112 at Pier 80 sustained damage, was partly derailed from its tracks and had to be repaired; and

WHEREAS, the boom was fully extended and overhung the shipping channel, therefor the accident created an immediate health and safety hazard, particularly to navigation from the disabled boom overhanging the shipping channel; and

WHEREAS, the Port immediately enlisted Paceco Corporation on an emergency basis to determine the cause of failure, to assist with identifying the scope of repair and to assist with the repair oversight; and

WHEREAS, the magnitude of the scope of repair was beyond the capabilities of the Port's maintenance staff; and

WHEREAS, the Port enlisted Rigging International on an emergency basis to perform repair work at a cost of $82,000; and

WHEREAS, because additional damage may be discovered during repairs it is anticipated that an additional $12,000 will be needed to fund contract modifications; and

WHEREAS, funds for this work are available in the Port's Operating Budget; therefore be it

RESOLVED, that the San Francisco Port Commission hereby ratify the action of the President of the Commission contained in the letter to the Controller dated March 18, 1996; and be it further

RESOLVED, that for repair of Paceco Crane No. 1112 at Pier 80, the San Francisco Port Commission hereby retroactively authorizes staff to issue emergency contracts to determine the cause of failure, to assist with identifying the scope of repair and to assist with the repair oversight to Paceco Corporation for $4,464 and for construction repair to Rigging International for $82,000; authorizes $12,000 in contingency funds for possible construction contract modifications; and further authorizes the Executive Director to accept the work upon final completion of the construction contract.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 9, 1996.

_____
Secretary

SF
P55
#3
4/9/96

CITY & COUNTY SAN FRANCISCO
PORT COMMISSION

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MINUTES OF THE MEETING
APRIL 9, 1996

1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 4:05 p.m. The following Commissioners were present: Michael Hardeman, Frankie Lee, Preston Cook, Frank O'Neill and James Herman.

2. APPROVAL OF MINUTES - March 26, 1996

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

With the Commission's permission, the Commission Secretary announced that Item 4A will be taken out of order and will be heard first.

4. SPECIAL ITEM

A. Approval of Declaration of Support for the San Francisco Commercial and Recreational Fishermen's call for a fair and balanced Fisheries Management Program by the Pacific Fishery Management Council (Resolution No. 96-39)

Mr. Bouey gave the Commission a copy of the substitute resolution. Mr. Bouey stated that a week ago, he received a call from Bob Miller concerning potential recommendations by the National Marine Fishery Service (NMFS) that would dramatically affect the fishing industry. This is the first time that the fishing industry has asked for anything. The NMFS has proposed cutting back the season, by 50%, on winter run salmon. This is a very dire action and could put the industry out of business. One of the ironies is that it's largely through the fishing industry's efforts that those agencies responsible for regulating to protect this winter run have been prodded into action. Because of the increase in diversions and heavy pumping in the delta, the winter run has been negatively impacted. Instead of looking at more creative ways to solve this problem, NMFS proposes to solve the problem by letting the fishing industry absorb the cost of the cure. The fishing industry has come up with a better alternative that attains the goal that the NMFS would like to reach but in a less, dramatic and hurtful way i.e. to increase the minimum size of the fish that can be kept, protecting the winter run and yet leave a season for the fishing industry. Mr. Bouey enumerated the changes of the substitute resolution such as the word "month" on the fifth paragraph has been changed to "week." The sixth and seventh paragraphs have been added. He mentioned that Carolyn Macmillan is in attendance at the NMFS hearings and the substitute resolution will be read and Commission's support

of the fishing industry will be conveyed to the NMFS.

Mr. Miller thanked the Commission, especially the Executive Director for their support. He corrected the Executive Director's comment that this is not the first time they have asked the Port for assistance. In fact, they have come before the Commission a few times but only in the last few years, especially since Mr. Bouey's term, that they've felt close enough to come to the Port for assistance. He thanked the Commission for its support of their position especially in this particular case.

ACTION: Commissioner O'Neill moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution, as amended, was adopted.

3. EXECUTIVE

A. Executive Director's Report

Mr. Bouey reported the following:

(1) The Pier 39 Underwater World Grand Opening will be held next week.

(2) Mr. Bouey handed the Commission a copy of the annual report. Most noteworthy, beside the effort put forth by Carolyn Macmillan, Peter Dailey and Gerry Roybal, is the picture of each and every Port employee, the most important assets of the Port. Staff has done a phenomenal job during the past few difficult years and it's proper and fitting to recognize their achievements by putting them on the cover of the annual report.

Commissioner Hardeman echoed the comment of thanks to Fritz Arko for the numerous invitations mailed to the Commissioners.

5. TENANT & MARITIME SERVICES

A. Authorization to issue Request for Proposals to lease Mission Rock Resort Restaurant located at 817 Terry Francois Boulevard. (Resolution No. 96-33)

Mr. Bouey stated that he received a request to put this item over to the next meeting as Norma Wahl was not certain that this item was going to appear on today's calendar.

Commissioner Cook commented that he will go along with the resolution but would like to have this on the agenda at the next meeting and to make sure that Ms. Wahl is fully aware that it will be acted upon at the next Commission meeting.

ACTION: Commissioner Herman moved approval to put this item over to the next meeting; Commissioner Lee seconded the motion. All of the Commissioners were in favor.

B. Approval of percentage rental adjustments for Cory Gallery, Franceschi's and Pompei's Grotto at Fisherman's Wharf; for Fog City Diner at the Embarcadero and Battery Streets; and for Sinbad's at Pier 2. (Resolution No. 96-34)

Mr. Bouey stated that this is a continuation of a series of negotiations that have taken place with a number of restaurants. Exhibit B enumerated the terms such as: Food service has been increased to 6-3/4%; alcoholic beverages 6-3/4%; and all other uses 8.75% (retail) and Cory Galleries 8.75%.

Commissioner O'Neill stated that Fog City Diner is included on the agenda, but not on the memorandum. Mr. Bouey stated that Fog City Diner has asked to be taken off the calendar and to be put on a future agenda.

ACTION: Commissioner Cook moved approval; Commissioner O'Neill seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

C. Approval of agreement between the Port and Pier 39 Limited Partnership/Underwater World concerning State Coastal Conservancy Grant for improvement of public access area located at Pier 43. (Resolution No. 96-35)

Mr. Bouey stated that Pier 39, in negotiating an agreement to build the aquarium, took on the responsibility to improve public access at Pier 43. When it came time to initiate that work, they realize that the substructure was in less than the best condition and felt that the Port had a responsibility to improve the substructure before they performed their improvements. We've read the agreement and it says that Pier 39 is to construct all of the improvements and the Port is to maintain them. This is an honest dispute between parties; however, Pier 39 was creative in finding a solution i.e. to apply to the State Conservancy and get a grant of $600,000 to apply and fix the substructure. This Commission has already approved that grant. This agreement is solely the framework of which how those monies will be spent and handled between the two parties. He mentioned that Legal Counsel Neil Sehkri is attendance to answer Commission's questions.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

D. Approval of Port Park Code covering certain Park and Public Access areas located on Port property. (Resolution No. 96-21)

Mr. Bouey stated that this item was on the agenda two months ago and it was discussed at great length. At the time, staff did not want the Commission to act until such time that the rules implementing the code were available to the Commission for their review. To refresh the Commission's memory, adoption of this code enables staff to administer regulations at the new South Beach Park and for other park spaces, e.g. at Rincon Point Park. In this instance, the rules will be administered by the Redevelopment Agency since they currently have the South Beach Park under lease.

Commissioner Herman stated that located in the center of this new park property is a ILWU Local 34 dispatch office. In recent meetings with the Giants and their officers, there is no quarrel that the long term lease will be honored. However, people who park their cars in front of the building have been advised by the parking authority that will not be continued to be permitted because they are now on the South Beach Yacht property. He asked if this is a continuing part of the new understanding.

Mr. Bouey replied that this item before the Commission should not affect the property at all. With regard to the leasehold, this package or no other action taken by Port staff or Commission will interfere with that leasehold. If there's parking within the leasehold, it should not be affected by this action or any other action taken. If there is parking available to this leasehold but which exists outside the leasehold, there may be problem.

Commissioner Herman stated that there should be some caveat that will not include prohibition for the parking where since its inception has been allowed. Commissioner Herman reiterated that along Berry Street, directly in front of the ILWU building is a park, the people who control it argue that parking is for the exclusive use of those who go to the yacht club.

In response to Mr. Bouey's inquiry as to who controls the property, Mr. Sekhri replied that Port property, within the option area should not be affected by this agreement. The only part affected by this agreement is the grassy areas of the South Beach Park. Mr. Bouey suggested putting this item over so that staff can review this issue.

Commissioner O'Neill supported Commissioner Herman's position but added that this is a very broad based resolution, which includes South Beach Park, Pier 7, Ferry Plaza, Embarcadero Promenade, Pier 43, Pier 43-½,Fisherman's Wharf Lagoon, Pier 47A and Warm Water Cove. He added that in reading the package, the Port is giving away some important prerogatives. He asked that during the review period, he would like to address one project at a time.

Mr. Bouey suggested that in this interim time Mr. Sekhri meet with Commissioner O'Neill. However, there are two elements to be considered, one is the code that applies to all our properties, which the Port controls; and two, except for the one area which is in the Redevelopment Agency's control, we are only giving up that area which we have leased to the RDA.

Mr. Sekhri pointed out that this code adopts the park code, rules and regulations to be administered by the Port for all the public areas and delegates authority to the Redevelopment Agency for permitting authority only with regard to South Beach. All of the other areas are to be administered by the Port. The only aspect delegated to the RDA is the control of the South Beach Park which they have under their current lease with the Port. Commissioner O'Neill suggested writing this strictly for South Beach Park with RDA and delete all other mentioned. Mr. Sekhri replied that it was originally done for South Beach Park but staff thought it would be a good idea for the Port to have its own park code which covers the rest of its property. What we have is

rules of conduct for Port public access and permitting. This is for the Port's benefit in order to efficiently administer its property. Commissioner O'Neill commented that it might be easier for the staff's standpoint but some of these properties are coming up for some very serious development and would hate to see Port lock into an agreement that the Port cannot change. He suggested that we should look at each project individually.

Commissioner Cook stated that he too had concerns when he first read the documents several meetings ago. After reviewing it, however, all of his concerns have been addressed and thanked staff for making those amendments.

Commissioner Hardeman stated that Item 5D will be held over to the next meeting so that Commissioners Herman and O'Neill will have an opportunity to meet with Mr. Sekhri and report back at the next meeting.

6. FACILITIES & OPERATIONS

7. PLANNING & DEVELOPMENT

8. ADMINISTRATION

9. CONSENT CALENDAR

A. Approval of travel for one Port representative to attend the American Industrial Hygiene Conference and Exposition in Washington, D.C. (Resolution No. 96-36)

B. Approval of travel for one Port representative to attend the American Association of Port Authorities (AAPA) Spring Legislative Conference in Washington, D.C. (Resolution No. 96-37)

C. Approval of the Declaration of Emergency for the repair of Paceco Crane No. 1112 at Pier 80. (Resolution No. 96-38)

ACTION: Commissioner Cook moved approval; Commissioner O'Neill seconded the motion. All of the Commissioners were in favor; the items on the consent calendar were adopted.

10. NEW BUSINESS / PUBLIC COMMENT

Maury Polse, representing Maury Polse Charters, addressed Mr. Kirk Bennett's March 28 letter to cease giving site seeing tours at Pier 49 and to remove their signs. He then gave the background of his company. He asked the Commission to honor the good word of the Port of San Francisco and let him continue to provide what every person without exception has said enhances the grotto, the Port and the tourist industry of San Francisco.

Commissioner Cook commented that he's certainly interested on what Mr. Polse is doing but wants to make sure that it is done properly, with all of the necessary permits in place.

Commissioner Herman inquired if the gentleman is doing something that violates a rule or law and if there's anything Mr. Polse can do to meet the requirement.

Mr. Bouey commented that the Commission has a policy that the Fisherman's Wharf Lagoon is reserved for those boats whose principal business is fishing or those boats that are reminiscent and in the tradition of the fishing trade. He believes that Mr. Bennett is acting in accordance with the Commission's policy.

Commissioner Cook commented that if there is no harm or no interference with the fishing industry or have the support from the fishing industry of Mr. Polse's operation, perhaps a review of the policy is in order to make sure his operation can be accommodated.

Commissioner Herman inquired if we can take a look at this issue and make a final decision. Mr. Bouey replied that to do so would be in violation of the Commission's policy. There are a number of issues involved and if other businesses knew that Mr. Polse has boats in the lagoon for tourist-oriented trips, they may want to be involved.

Commissioners Cook and Lee volunteered to review this issue with staff and report back to the Commission.

Darryl Hickey stated that he, too, is in the same situation as Mr. Polse and asked the Commission to revisit its policy.

Commissioner O'Neill commented that he has been in touch with Sgt. Parenti and was informed that they are forming a task force and all interested parties will notified regarding the blade skating, skateboard situation.

Mr. Bouey mentioned that he has appointed Veronica Sanchez to head a task force for the Port regarding this issue. She has met with Sgt. Parenti and is currently analyzing whether to merge the two task forces. Mr. Bouey also made her aware of Commissioners O'Neill's and Herman's interest and to keep them abreast of the situation.

Per the Executive Director's suggestion and with the Commission's concurrence, Commissioner Hardeman concluded this portion of the meeting with a moment of silence for the Commerce Secretary Brown and the other people who lost their lives while on a peace mission.

Commissioner Hardeman requested the Executive Director to extend an invitation to the Mayor to speak at the next meeting.

11. EXECUTIVE SESSION

At 4:50 p.m., the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following matters:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-Port representative.***

1) Property: Port property located at Seawall Lot 344 adjacent to Cargo Way.
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
AES Representative: Mark Woodruff

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

2) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

3) Property: Port property located at Mission Bay, between Illinois Street and Terry Francois Boulevard.
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
Catellus Representative: Don Parker

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION AND ANTICIPATED LITIGATION MATTERS

1) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

At 6:20 p.m. Commissioners Hardeman, Lee, Cook, O'Neill and Herman returned from executive session and convened in public session.

ACTION: Commissioner Lee moved approval to not disclose any information discussed in the executive session. Commissioner O'Neill seconded the motion. All of the Commissioners were in favor.

The meeting was adjourned at 6:22 p.m.

SAN FRANCISCO
PORT COMMISSION

SF
255
#1
1/23/96

REGULAR MEETING
4:00 P.M., TUESDAY, APRIL 23, 1996
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

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AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - April 9, 1996

3. **EXECUTIVE**

   A. Executive Director's Report

4. **LEGISLATIVE**

   A. Support for Reform of the Passenger Services Act to allow the Port of San Francisco to seize emerging market opportunities for new cruise business. (Resolution No. 96-40).

5. **TENANT & MARITIME SERVICES**

   A. Authorization to issue Request for Proposals to lease Mission Rock Resort Restaurant located at 817 Terry Francois Boulevard. (Resolution No. 96-33)

   B. Approval of Port Park Code and Port Park Rules and Regulations covering certain park and public access areas located on Port property. (Resolution No. 96-21)

6. **FACILITIES & OPERATIONS**

7. **PLANNING & DEVELOPMENT**

   A. Status report on the Ferry Building Renovation Project.

   B. Report on the 1996 Seaport Plan.

8. **ADMINISTRATION**

9. **CONSENT CALENDAR**

   A. Approval of lease with Goodwill Industries at Seawall Lot 337, Terry Francois Boulevard at Mission Rock Street. (Resolution No. 96-41)

10. NEW BUSINESS / PUBLIC COMMENT

11. EXECUTIVE SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment ✓ Both

An executive session has been calendared to discuss the status of real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS

1) Sheedy v. CCSF; San Francisco Superior Court No. 963-103; pursuant to subdivision (a) of California Government Code Section 54956.9

2) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

The City Attorney is of the opinion that based on existing facts and circumstances, discussion of existing and anticipated litigation matters in open session would prejudice the legal position of the Port. An executive session is specifically authorized under California Government Code Section 54956.9(a)(c).

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. ADJOURNMENT

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary.

PORT OF SAN FRANCISCO

MEMORANDUM

April 17, 1996

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
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Cable SFPORTCOMM
Writer

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. James R. Herman
Hon. Francis J. O'Neill
Hon. Preston Cook

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Support for Reform of the Passenger Services Act to Allow the Port of San Francisco to Seize Emerging Market Opportunities for New Cruise Business

DIRECTOR'S RECOMMENDATION: APPROVE ATTACHED RESOLUTION

BACKGROUND: THE FEDERAL LAW AND STATUS OF U.S. FLAG CRUISE INDUSTRY

In 1886, Congress enacted a penalty of $2.00 per passenger for foreign vessel operators engaged in the transport of passengers between American ports. Two years later, the penalty was raised to $200.00 per passenger which even under modern standards is essentially a prohibition. This Federal Statute (46 USC 289) has commonly become known as "The Passenger Services Act" (PSA) and as documented in the Congressional Record, the intent of the PSA was to stop competition between Canadian and American passenger vessels in the Great Lakes.

In order for a passenger vessel to sail under the U.S. Flag, it must be built in a U.S. shipyard, crewed by American crew and have a majority of the owners must be American. American Flag ships are also subject to U.S. corporate taxes, liability and labor laws.

Contrary to common perception the PSA is not part of the Jones Act (The Maritime Security Act of 1920) which regulates the cargo industry and allows only American Flag operators to transport goods between U.S. Ports. The Jones Act made no reference to the operation of passenger vessels.

THIS PRINT COVERS CALENDAR ITEM NO. 4A

Decades ago, the PSA served its purpose of protecting jobs for American seafarers when there was a fleet of American cruise ships. Regrettably, the U.S. Flag fleet of passenger vessels now consists of one overnight ocean going passenger vessel, the Independence, currently operating in the Hawaiian Islands and inland waterway operators (i.e. Alaska Sightseeing, Delta Queen and Clipper Cruises).

Since 1958, U.S. shipyards have not built an ocean going, overnight passenger vessels due to competition from foreign yards. Even Disney Cruise Lines, an icon of American industry, is building their two new ships, at an Italian yard. The construction of new U.S. Flag cruise ships would need to be subsidized with Maritime Administration Loans from the Federal government and the funding for this program which is also available for the construction of cargo vessels, barges and tankers is subject to the annual Congressional budgeting process.

Given the historical difficulty in the construction of American passenger vessels, the only other option for the entry of American flag vessels into this market is through the reflagging of foreign built ships through Congressional action. Currently, there is a proposal in the Coast Guard Authorization bill to reflag two foreign flag passenger ships, the Enchanted Isle and Enchanted Seas into U.S. Flag service is being proposed in the Coast Guard Authorization bill pending in Congress.

Meanwhile, there is overcapacity of cruise ships in the foreign fleet with 30 new cruise ships currently being built and ready to enter the market in the next three years. If the U.S. domestic market continues to be closed off because of the PSA, the foreign cruise lines will put these ships into itineraries in other parts of the world instead of U.S. ports.

MARKET OPPORTUNITIES FOR THE PORT OF SAN FRANCISCO'S CRUISE BUSINESS

In 1993, the Port had 34 cruise calls. In 1994 and 1995, the Port increased the number of calls to 50 per year. In 1996, the Port is expecting 77 cruise calls, 47 of these calls will be from large ocean going vessels and 31 of the ships are U.S. Flag inland waterway vessels (less than 100 passengers) offering Bay and Delta itineraries.

Despite the Port's recent successes in its cruise marketing efforts, San Francisco's distance from Alaska and Mexico puts it at a competitive disadvantage in attracting shorter cruises. The Port will hit a glass ceiling in its level of cruise business unless the Congress makes meaningful changes to the PSA which will allow San Francisco to tap into the emerging market niche for shorter cruises and new itineraries (i.e. mainland to Hawaii or Pacific Northwest).

Thus, the U.S. coastal market has been essentially closed and San Francisco is unable to market new itineraries (e.g. S.F. to Monterey or the North Coast, S.F. to Seattle or Southern

California) to foreign cruise line operators. The Port estimates that 72 new cruise calls per year could be generated for San Francisco if this law were changed, generating $25.5 million in new revenues for tourism and maritime businesses (including longshore) in San Francisco. The Port's projected revenues for FY95-96 cruise business is $653,200. The addition of 72 new calls would allow the Port to generate at least another $400,000, thereby generating $1 million in total revenues for the Port's cruise business.

The development of new cruise business would open up new job opportunities for longshore work in San Francisco which has suffered with the loss of cargo shipping to the Port of Oakland. On an average, when a cruise ship arrives in port, 52 longshoremen are employed to load stores, baggage, and work the security checkpoints.

The Port's ship repair tenants would also benefit growth of our cruise business because if cruise ships are based in San Francisco there is a greater opportunity for repair work to be done at our yards. In 1995, San Francisco Drydock repaired three cruise ships, including two Carnival Cruise ships (the largest cruise line in the world) which produced work for 300 blue collar workers.

LEGISLATIVE EFFORTS TO REFORM THE PSA

For over ten years, the American Association of Port Authorities has supported changes to the Passenger Services Act that would permit the entry of foreign vessels into the domestic trade with protections for existing and prospective American Operators. This proposal is similar to the waiver enacted by Congress for Puerto Rico in 1984.

In October 1995, two committees of prominent tourism leaders, preparing for the White House Conference on Travel and Tourism, identified the PSA as a barrier to developing new tourism products in the United States and recommended changes to the law to increase the ability of U.S. Ports to host cruise business without undermining current U.S. Flag operators. This recommendation is incorporated in the National Travel and Tourism Strategy, the official publication summarizing the Conference's recommendations.

The California delegation to the White House Conference, led by Deputy Tourism Director, John Poimoroo, advocated for adopting a position in support of changes to the PSA. The California Tourism Advisory Board, Governor Wilson and the California Legislature are also on record in support of reform. In 1995, the California Association of Port Authorities supported changes to the PSA. In March 1996, the City of Los Angeles joined the Port of Los Angeles in supporting this position.

In 1995, a bipartisan coalition of twelve Members of Congress (including Representatives Pelosi, Farr, Seastrand and Baker) requested a hearing before the House Transportation and Infrastructure Committee to consider reforming the Passenger Services Act. A hearing

before the Subcommittee on the Coast Guard and Maritime Transportation is expected to take place this Summer.

An alternative proposal to reforming the PSA has been drafted by the Transportation Institute (representing seafaring unions and American Flag vessel operators) with the support of the Port of Seattle. This proposal would continue limiting entry into the U.S. domestic cruise market to U.S. Flag vessels. Additionally it sets up requirements aimed at creating a U.S. Flag passenger vessel industry by allowing foreign cruise lines to reflag ships built abroad. This proposal may be introduced in the Senate this year. The draft legislation is similar to legislation introduced by Rep. Unsoeld (D-Washington) two years ago which reached an impasse in Congress.

As currently written, this proposal would allow foreign built passenger vessels to enter the U.S. market **if they reflag their vessels and commit to building a new U.S. Flag passenger vessel of a smaller berthing capacity of the vessel reflagged.** The proposal also contains tax incentives relating to deductions for conventions and would allow the Secretary of Transportation to review the effectiveness of the program after two years of implementation and recommend to Congress what further incentives would be need to promote a U.S. Flag industry.

Two years ago, at the request of the Port of Seattle, the San Francisco Port Commission passed a resolution in support of the Unsoeld bill. Since then, Port staff has analyzed trends in both the foreign and American cruise industry, spoken with our cruise customers, representatives from travel industry and staff has concluded that proposals aimed at opening up the domestic market by relying on a resurgence of a fleet of U.S. Flag passenger vessels are speculative and unrealistic from a market perspective. Particularly burdensome, is the proposed requirement that a foreign operator must commit to building a second ship in a U.S. yard as a condition of reflagging the foreign vessel. With 30 new foreign ships scheduled to be delivered by 1998, it is unrealistic to expect foreign operators to begin building American Flag cruise ships. Such a proposal will not result in a significant business for the Port of San Francisco to meet the demand for new coastal cruises and the interest of cruise lines in offering itineraries from San Francisco.

A preferable approach would be to work towards a solution that creates market incentives for attracting existing foreign carriers into this market so that jobs can be stimulated for both American seafaring and longshore labor. Through the process of Congressional hearings and meetings with key legislators, staff and administration officials, these issues can be addressed with the objective to produce legislation that balances the economic needs of the ports, cruise lines, maritime unions and U.S. shipyards.

FORMATION OF BROAD BASE COALITION BETWEEN PORTS AND THE TOURISM INDUSTRY

The Port of San Francisco has taken leadership in working with other West Coast ports to establish an umbrella organization for the port industry, tourism sector and other maritime businesses dependant on the cruise industry to advocate for changes to the Passenger Services Act. This organization has been incorporated under California law under the name, ***"CRUISING AMERICA: PROMOTE TOURISM AND JOBS COALITION"***

Other ports who have officially joined the ***Cruising America Coalition*** include: the American Great Lakes Ports, Boston, Baltimore, Charleston, Galveston, Corpus Christi, Los Angeles, San Francisco, Eureka and California. Other ports are currently reviewing the organization's position and will be considering support within the next month.

Support is being secured from national, state and local travel industry associations. The National Tours Association Government Affairs Committee, representing 3,800 members from the travel sector (including hotels, restaurants, suppliers, tour operators) is supporting ***Cruising America's*** efforts. Travel agent associations have been supporting our position and their official boards and leadership is considering formal endorsement.

Local supporters include: the San Francisco Convention and Visitors Bureau, the Hotel Council, Pier 39 and the Fisherman's Wharf Merchants Association.

Prepared by: Veronica Sanchez
Manager, Governmental Affairs

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

Resolution No. 96-40

WHEREAS, A Federal law, commonly referred to as the Passenger Services Act (1886), severely penalizes foreign vessel operators for transporting passengers between U.S. ports.

WHEREAS, Contrary to common perception the Passenger Services Act is not part of the Jones Act (1920) regulating the cargo industry which restricts the transport of merchandise and goods to American Flag carriers; and

WHEREAS, The Passenger Services Act is no longer serving its purpose of protecting jobs for American seamen because in the last forty years, the fleet of U.S. Flag ocean going passenger vessels has declined to one vessel operating in the Hawaiian Islands and since 1958, a cruise ship has not been built in U.S. shipyards.

WHEREAS, There is an emerging market niche for shorter cruises; and itineraries featuring U.S. ports. This demand provides the Port of San Francisco with the opportunity to double its existing cruise business and to stimulate revenue and employment for the tourism industry, longshore and maritime support industries, ship repair industry; and other businesses benefiting from the cruise industry; and

WHEREAS, To seize this market opportunity, U.S. ports can not depend exclusively on a resurgence in the building of new American Flag cruise ships; and

WHEREAS, The American Association of Port Authorities and the National Tourism and Travel Strategy produced by the White House Conference on Travel and Tourism advocate for changes to the Passenger Services Act with protections for existing and prospective American operators; and

WHEREAS, A coalition of U.S. ports, tourism interests and other cruise industry dependant businesses, and consumers is being organized under the name of *"Cruising America... Promote Tourism and Jobs,"* to advocate for reform of the Passenger Services Act, consistent with the recommendations of the White House Conference and AAPA; now therefore be it

RESOLVED, That the Port of San Francisco supports the efforts of the *Cruising America Coalition* to pursue meaningful changes to the Passenger Services Act that are market driven; and that will enable ports to seize immediate opportunities in the cruise industry by stimulating the entry of cruise ships from the worldwide fleet. Proposed changes should not compromise the operations of existing or future American Flag operators offering ocean going or inland waterway itineraries; and be it further

RESOLVED, That the San Francisco Port Commission's support for reform of the "Passenger Services Act is based on market conditions specific to the cruise sector, a tourism industry, and has no bearing on any proposals to change the Jones Act which is serving to protect American seafaring jobs and promotes national security.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 23, 1996.

_____
Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

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San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
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Cable SFPORTCOMM
Writer

April 17, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Authorization to Issue Request for Proposals to Lease Mission Rock Resort Restaurant Located at 817 Terry Francois Blvd.

DIRECTOR'S RECOMMENDATION: AUTHORIZE STAFF TO ISSUE A REQUEST FOR PROPOSALS TO LEASE MISSION ROCK RESORT RESTAURANT.

Description of Site and Current Operation

The premises comprise approximately 8,000 square feet of land upon which is located an existing restaurant building containing approximately 4,000 sq.ft. (including outdoor decks). A site plan of the premises is attached. The existing restaurant serves breakfast, lunch and alcoholic beverages. The eating areas, which are located both indoors and outdoors on two levels, have commanding views of San Francisco Bay. Pricing for food and beverage is moderate. The current tenant operates Mission Rock Resort on a month-to-month hold-over basis.

Existing Marina

The marina will not be a component of the proposal process. The Port intends to ultimately demolish the marina due to accessibility and life safety issues. The Port anticipates constructing a new 26 slip marina for small boats when a funding source is identified and secured. In the interim, the Port will consider allowing the successful proposer to install day use only guest berths for patrons.

THIS PRINT COVERS CALENDAR ITEM NO. 5A

Goal of Request for Proposals

The goal of this Request for Proposals ("RFP") is to identify the best tenant who will:

1. Operate a successful restaurant operation under a net lease;
2. Maximize revenues to Port;
3. Commit to investment on the premises bringing the restaurant into compliance with all regulatory codes;
4. Improve the appearance and street appeal of the operation;
5. Provide an exciting new resource for the public which will optimize public enjoyment of the waterfront; and
6. Design an operation which retains the character of a San Francisco waterfront gathering place.

Business Terms for Proposed Lease

Premises:	Approximately 8,000 square feet of restaurant and land space delivered in its "as is" condition.
Term:	Fifteen years
Options:	Two (2) 5-year options at fair market value.
Effective Date:	Six business days following approval by Board of Supervisors and signature by Mayor.
Use:	Public restaurant and with optional uses to include live entertainment and not more than 400 square feet of retail space. Other uses consistent with existing regulations will be considered, but a private club will not be permitted.
Base Rent:	To be proposed - Not less than $2,000 per month
Rent Commencement:	To be proposed.
Rent Abatement:	To be proposed.
Percentage Rent:	7.0% full service dining; 9.0% casual dining; 9.0% retail
Type of Lease:	Net lease using Port's standard form lease document.

Required Improvements

The following required improvements must be completed by Tenant prior to issuance of an occupancy permit by the Port:

Building Improvements

1. Cure all code violations;
2. Replace second floor deck and stairs;
3. Replace roof, gutters and downspouts;
4. Make cosmetic improvements to exterior of building;
5. Asbestos removal from interior of building (triggered by improvements).

Other Interior/Exterior Improvements

To be proposed

Regulatory Requirements

The Tenant shall be responsible for obtaining all necessary permits at its sole cost.

Tenant shall be required to comply with the Americans with Disabilities Act and Title 24 of the California Building Code.

Selection Process

Responsiveness	Five years of verifiable restaurant experience as owner/manager in past 10 years
Elevation to Panel	Five proposals with highest combined Net Present Value (NPV) of Minimum Rent including any proposed rent abatement period plus NPV of proposed capital improvement dollars over 15 year Term
Panel Grading	Highest score based on written and oral presentations covering:
Points 1-25	1. NPV of minimum rent, with rent abatement (using a 9% rate)
1-25	2. NPV of capital improvements proposed over initial 15 year term (using a 9% rate)
1-25	3. Restaurant experience
1-25	4. Type of operation and feasibility of cash flow forecast (Business Plan)

Note: Human Rights Commission scoring adjustment (S.F. Admin. Code Chapter 12D) will be applied to certified MBE/WBE firms or joint ventures.

Lease Performance Requirements

The successful proposer will be required to invest monies as proposed and any failure to meet the amounts and timetables will result in lease termination by the Port.

Maintenance and repair requirements of the tenant, set forth in the lease, will be strictly enforced.

Affirmative Action

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code have been

incorporated into the RFP which will require the tenant to implement an affirmative action plan to ensure equal employment with its operation. The Port strongly encourages small, local, women and minority owned businesses to participate in the RFP process.

The successful proposer will be required to use its good faith efforts to contract with certified MBE and WBE firms to perform both the required and tenant proposed improvements. The lease will contain an appropriate MBE and WBE participation goal for the construction of improvements included in the proposal.

Brokerage Commission

Staff proposes to offer this retail opportunity as a commissionable transaction, per previously approved rate schedule, if proposal is presented through a licensed real estate broker that properly registers the transaction with Port staff.

Projected RFP Schedule

Commission authorization to issue RFP	April 23, 1996
RFP issued	May 7, 1996
Outreach and advertising commences	May 7, 1996
Site tours	May 28-31, 1996
Pre-Proposal Conference/site tour	June 5, 1996
Deadline for submittal/proposal opening	August 1, 1996
Oral presentation of selected proposers	August 15, 1996
Commission awards lease (approximate)	September 10, 1996
Board of Supervisors approval (approximate)	October 8, 1996
Lease commences (approximate)	October 22, 1996

Prepared by: Frederick D. White, Director, Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-33

WHEREAS, Charter Section 3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port jurisdiction; and

WHEREAS, restaurant operations generate a significant revenue stream to the Port and the Port desires to operate its restaurant sites in an efficient manner which maximizes revenues; and

WHEREAS, there is a demand for waterfront gathering places which offer restaurant facilities; and

WHEREAS, the Mission Rock Resort has the potential to better meet this demand for a waterfront gathering place;

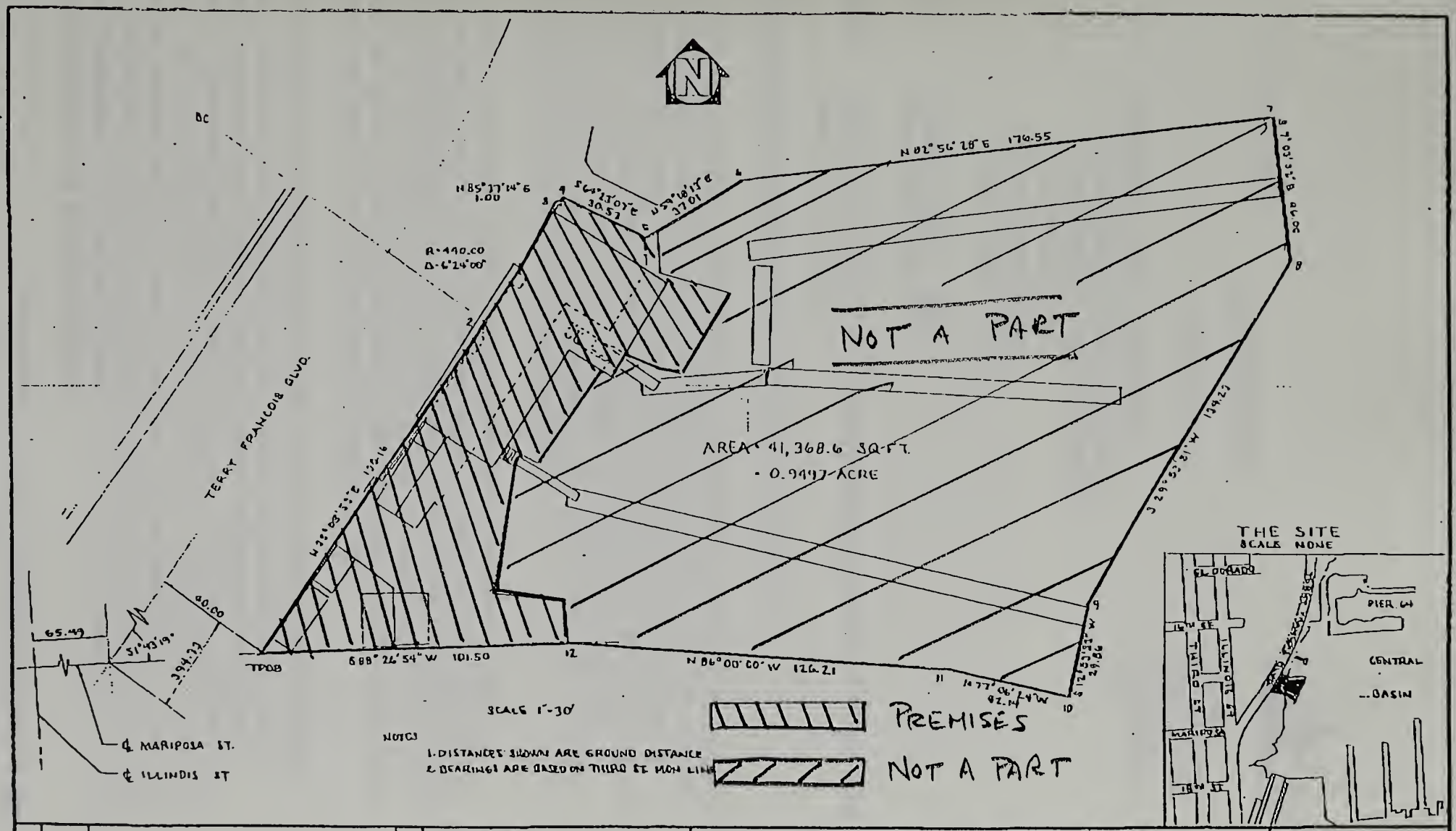
RESOLVED, that the San Francisco Port Commission authorizes staff to offer through a request for proposal (RFP) process a fifteen-year lease for the Mission Rock Resort Restaurant located at 817 Terry Francois Boulevard in accordance with the terms set forth in the Memorandum to the Port Commission for this Resolution.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 23, 1996.

_____
Secretary

I:\MISSRFP.MEM\FW\ats\Mapril 15, 1996

EXHIBIT A



NO.	DATE	DESCRIPTION	BY

TABLE OF CHANGES
CHECK TRACING FOR LATEST REVISION

APPROVED BY
SAN FRANCISCO PORT COMMISSION
DATE _____

CHIEF HARBOR ENGINEER

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

EXHIBIT 'A'
MISSION ROCK RESORT

DESIGNED BY:	CHECKED BY:
DRAWN BY: ECC	DATE: MAR '8 1994
CONTRACT NO.	SCALE: AS SHOWN
DRAWING NO.	SHEET NO.
	OF SHEETS

PORT OF SAN FRANCISCO

MEMORANDUM

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Writer

April 16, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Francis J. O'Neill

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Port Park Code Covering Certain Park and Public Access Areas Located on Port Property

DIRECTOR'S RECOMMENDATION: APPROVE PARK CODE

On December 2, 1995, the Redevelopment Agency opened the first phase of the Park in the Rincon Point/South Beach Project Area which is on land the Agency leases from the Port of San Francisco for a term of up to 55 years. The Agency has important interests in regulating activities in the Park to protect visitors from safety hazards, prevent damage to the property and facilitate special event coordination. As a result, the Agency has determined that there is a need to impose reasonable time, place and manner restrictions upon activities of the general public in South Beach Park.

Because the Redevelopment Agency does not possess police powers to enforce such restrictions, the Agency has requested the Port to adopt a Port Park Code ("Park Code"), based on relevant provisions of the City's Park Code, and extend the provisions of the Port Park Code over the South Beach Park area. The Agency has also requested the Port to authorize the Agency to issue permits and adopt rules governing South Beach Park for the duration of the Agency's lease with the Port for South Beach Park.

Under the Burton Act and Charter Section 3.581, the Port has the complete authority to manage, regulate and control the harbor of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of the Port property. For example, pursuant to this authority, the Port has adopted its own Harbor Traffic Code. Although the Redevelopment Agency has requested the Port to adopt a Park Code, Port staff believe that it is also in the Port's best interests to set forth a code regulating activities on Port property open to public access. Consequently, Port staff has prepared a Park Code for your consideration, a copy of which is attached to the attached Resolution.

THIS PRINT COVERS CALENDAR ITEM NO. **5B**

The proposed Park Code has been adapted directly from the City's Park Code which covers City property under the jurisdiction of the Department of Parks and Recreation. The proposed Park Code will cover South Beach Park, and other areas of Port property designated for public access, including, but not limited to, Pier 7, Ferry Plaza, the Port Embarcadero Promenade, Pier 43, Pier 43 1/2, Fisherman's Wharf Lagoon, Pier 47A, and Warm Water Cove. The maps attached as Exhibit A to the Park Code show the Port property subject to the Park Code.

The Park Code addresses the following items: (1) regulations governing conduct; (2) prohibitions on disorderly conduct; (3) regulations regarding animals; (4) regulations regarding traffic; (5) procedures regarding permits for activities conducted on park property; and (6) penalties, including misdemeanor and infraction penalties, for violations of the Park Code. The Park Code authorizes peace officers and delegated Port employees to carry out provisions of the Park Code.

In order to address the Redevelopment Agency's concerns, the proposed resolution adopting the Park Code delegates authority to the Redevelopment Agency Commission to set rules and issue permits for South Beach Park, and to designate persons who shall perform all other functions for South Beach Park which would be performed by the Port's Executive Director for any other Port property covered by the Park Code for so long as the Agency retains control of South Beach Park under its lease with the Port. The Redevelopment Agency has submitted to the Port their proposed rules for South Beach Park for approval. The Agency's rules are substantially the same as the Port Rules and Regulations attached hereto as Exhibit 1, except that the Agency is in charge of issuing permits and administering the regulations for South Beach Park. The Agency has agreed not to adopt any new rules or changes to existing rules without agreement thereto by the Port Commission, or its designee.

Article 6 of the Park Code provides that the Port Commission will adopt by resolution procedures for the filing and processing of permit applications. Port staff developed such procedures, which are attached hereto as Exhibit 1.

Because the Park Code provides for misdemeanor penalties and fines for infractions, authorizing legislation by the Board of Supervisors will be necessary to implement the Park Code.

Prepared by: Neil H. Sekhri, Assistant Port General Counsel

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-21

WHEREAS, Charter Section 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, the Port Commission desires to adopt a Park Code in substantially the form attached hereto, setting forth rules and regulations governing conduct within public access areas of Port property; and

WHEREAS, the Redevelopment Agency has requested that the Port Park Code be extended to cover South Beach Park, and that the Port Commission authorize the Agency to adopt rules and issue permits for South Beach Park for the term of its lease therefor; and

WHEREAS, Board of Supervisors approval is necessary to authorize enforcement of the Park Code pursuant to the City's police powers; now, therefore, be it

RESOLVED, that the Port Commission hereby approves the Park Code in substantially the form attached hereto; and be it further

RESOLVED, that the Port Commission hereby approves the Rules and Regulations in substantially the form attached hereto, implementing Sections 2 and 6 of the Park Code, and hereby authorizes the Executive Director to make such amendments thereto as may be necessary from time to time to assist in the efficient administration of Port park property; and be it further

RESOLVED, that, for so long as the San Francisco Redevelopment Agency retains control of South Beach Park under its lease with the Port Commission, the governing body of the Redevelopment Agency is hereby authorized to set rules for South Beach Park (subject to the prior approval of the Port's Executive Director), and to issue permits therefor, and to designate persons who shall perform all other functions for South Beach Park which would be performed by the Port's Executive Director for any other Port property covered by the Park Code; and be it further

RESOLVED, that the staff of the San Francisco Port Commission is hereby directed to take all steps necessary and proper to carry out this resolution, provided however, that implementation of this resolution shall be conditioned upon passage of complimentary legislation by the Board of Supervisors.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 23, 1996.

_____
Secretary

SAN FRANCISCO PORT COMMISSION
PARK CODE

PREAMBLE

Under the Burton Act and Charter Section 3.581, the San Francisco Port Commission has the complete and exclusive authority to manage, regulate and control the harbor of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of the Port property. The Port has important interests in regulating activities on public access areas of Port property to protect visitors from safety hazards, prevent damage to the property and facilitate special event coordination. As a result, the Port has determined that there is a need to impose reasonable time, place and manner restrictions upon activities of the general public on the Port's public access areas. In keeping with its duties of administering the public trust, this Park Code is not intended to restrict the rights of the public to enjoy the waters of San Francisco Bay to the full extent those rights are granted under the public trust doctrine.

Article 1. Definitions.

Sec. 1 "Park" Defined.
Sec. 2 "Commission" Defined.
Sec. 3 "Executive Director" Defined.
Sec. 4 "Person" Defined.
Sec. 5 "Sign" Defined.
Sec. 6 "Vehicle" Defined.
Sec. 7 "Park Patrol" Defined.

1. 1. **"Park" Defined**. When used in this code, the word "park" shall mean and include those certain grounds, roadways, avenues, squares, recreation facilities, and other property identified in Appendix A hereto, which is under the jurisdiction of the San Francisco Port Commission. Any park abutting the waters of San Francisco Bay shall not be deemed to include the waters of San Francisco Bay.

1. 2. **"Commission" Defined**. When used in this Code, the word "Commission" refers to the San Francisco Port Commission of the City and County of San Francisco.

1. 3. **"Executive Director" Defined**. When used in this Code, the words "Executive Director" refer to the Executive Director appointed by the Commission pursuant to Charter Section 3.581 or to a person designated by the Executive Director to act on his or her behalf.

1. 4. **"Person" Defined**. The word "person" when used in this Code shall mean and include any person, association, partnership, firm or corporation.

1. 5. **"Sign" Defined**. The word "sign" when used in this Code shall mean any literal, pictorial or symbolic representation, including, but not limited to, a written, printed, photocopied or painted message on any paper, cardboard, wood, metal, cloth, or other flat surface.

1. 6. **"Vehicle" Defined**. When used in this Code, the word "vehicle" shall mean any device, in, upon, or by which a person or property is or may be propelled, moved or drawn upon a highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks, and shall include, but not be limited to, the following: automobile, truck, motorcycle, motor-driven cycle, animal-drawn carriage, buckboard, cart, and minibike or bicycle when operated under engine power.

1. 7. **"Park Patrol" Defined.** When used in this Code, the words "Park Patrol" refer to persons hired as employees or contractors of the Commission or City and County of San Francisco to patrol the areas under the jurisdiction of the Commission.

Article 2. Regulations

Sec. 2.1 Rules of Port Commission to Be Obeyed.
Sec. 2.2 Signs to Be Obeyed.
Sec. 2.3 Public May Be Excluded.
Sec. 2.4 Athletic Activities Prohibited in Certain Areas.
Sec. 2.5 Restrictions on Posting of Signs
Sec. 2.6 Personal Services.
Sec. 2.7 Airplanes, Helicopters, Hot Air Balloons, Etc., Prohibited.
Sec. 2.8 Peddling and Vending Merchandise or Printed Material.
Sec. 2.9 Camping Prohibited.
Sec. 2.10 Sleeping Prohibited During Certain Hours.
Sec. 2.11 Performance of Labor.
Sec. 2.12 Building Materials.
Sec. 2.13 Ground to Be Restored to Condition.
Sec. 2.14 Warning Signals at Danger Points.

2.1. **Rules of Port Commission to Be Obeyed**. No person shall willfully disobey or violate any of the rules or regulations of the Commission governing the use and enjoyment by the public of any park or of any building, structure, equipment, apparatus or appliance in any park, which rules or regulations, at the time, are posted in some conspicuous place in that area of the park or in or near the building, structure, equipment, apparatus or appliance to which the rule or regulation applies.

2.2. **Signs to Be Obeyed**. No person shall willfully disobey the notices, prohibitions or directions on any sign posted by the Commission.

2.3 **Public May be Excluded**. In case of an emergency, or when in the judgment of the Commission or the Executive Director the public interest demands it, any portion of any park or park building therein may be closed to the public until such park area or building is reopened to the public by the Commission or the Executive Director: provide, however, that nothing in this Section shall authorize the Executive Director to close any portion of any park building because of activities, existing or anticipated, engaged in for the purpose of expressing ideas or causes, which activities are protected by the First Amendment to the United States Constitution.

2.4 **Athletic Activities Prohibited in Certain Areas**. Where a sign is posted, no person shall participate in any athletic activity, including, but not limited to running, jogging, volleyball, baseball, soccer, football, roller skating, bicycle riding, skateboarding, or frisbee. The prohibition contained in this Section applies to running or jogging only when the person running or jogging does not remain on pedestrian paths.

2.5 **Restrictions on Posting of Signs**.

(A) No person shall post or affix to any tree, shrub, plant, fence, building, monument, wall, post, vehicle or other physical object in any park any written or printed material, including, but not limited to, signs, notices, handbills, circulars and pamphlets.

(B) Notwithstanding Section 2.5, signs may be posted in the following circumstances:

(1) Any person who has scheduled an event in any park pursuant to a permit from the Executive Director may erect or post signs on the day that the event is scheduled to occur giving directions to such event, provided that such person receive prior approval from the Commission.

(2) Any person leasing the park from the Commission may post signs on or about the premises leased informing the public of the event scheduled to occur, provided that the locations selected for such posting have been designated by the Executive Director as appropriate for such use, which designated location or locations for such facility shall be applicable to all lessees of such facility, and provided further, that such signs not be posted earlier than one week before the event is scheduled to occur nor later than one week after the event is over;

(3) Persons and organizations maintaining and operating recreational facilities on park property on a daily basis may post signs which identify the facilities which provide information pertaining to recreational activities, or which inform the public of events sponsored by such persons and organizations or of regulations governing such facilities, provided (A) that such signs are posted only on the facilities so operated and maintained, whether inside or outside and (B) that if they are posted outside, the organization receive prior written approval from the Executive Director.

(4) The Commission or its designee may post signs in any park or in any facility in any park governing the public use of park property or informing the public of events sponsored by the Commission.

(C) When a person or organization is required to obtain the prior written approval of the Executive Director in order to post a sign in a park, the Executive Director may withhold such approval only if it finds that the location of such sign or signs would harm public or private property, or inconvenience or endanger the public, or unduly cover or block park facilities.

(D) No sign which is posted pursuant to this Section shall be affixed to any tree, shrub or plant.

2.6. **Personal Services**. No person shall use any of the facilities or areas of any park for the purpose of providing tennis, golf, sailing, boating, baseball, jogging, horseback riding or other athletic instruction for compensation without first having obtained a permit, concession, license or lease from the Executive Director.

2.7 **Airplanes, Helicopters, Hot Air Balloons, Etc., Prohibited**. No person shall launch nor land any airplane, helicopter, parachute, hang glider, hot air balloon, nor any other machine or apparatus of aviation in any park, nor shall any person bring into any park any balloon with a diameter of more than six feet or a gas capacity of more than 115 cubic feet, without written permission of the Executive Director.

2.8 **Peddling and Vending Merchandise or Printed Material**. No person shall bring, or cause to be brought, for the purposes of sale or barter, or have for sale, or sell or exchange, or offer for sale or exchange any food, beverage, goods, wares, or merchandise in any park without first having obtained a permit, concession, license or lease from the Executive Director.

2.9 **Camping Prohibited**. No person shall construct or maintain any building, structure, tent or any other thing in any park that may be used for housing accommodations or camping, except by written permission from the Executive Director.

2.10 **Sleeping Prohibited During Certain Hours**. No person shall remain in any park for the purpose of sleeping between the hours of 10:00 p.m. and 6:00 a.m., except that special permission may be granted by the Executive Director to persons providing security services between said hours in any park or for other unusual events.

2.11 **Performance of Labor**. No person, other than duly authorized personnel, shall perform any labor, on or upon any park, including, but not limited to, taking up or replacing soil, turf, ground, pavement, structure, tree, shrub, plant, grass, flower and the like, without written permission of the Executive Director.

2.12 **Building Materials**. No person shall place, pile, deposit or leave any building material in any park without first having obtained all necessary permits, included but not limited to building permits from the Executive Director.

2.13 **Ground to Be Restored to Condition**. Where work has been done in any park pursuant to a permit, the permittee shall repair, reconstruct, and put the ground in as good condition in all respects when the work shall have been completed or terminated or such permit shall have expired, as said ground was in when said permit was granted or said work commenced; the condition of the ground, site or place in the park where the work has been done pursuant to

any permit shall be made satisfactory to the Executive Director, and on the completion of said work the permittee shall forthwith remove all buildings, structures, machinery or equipment used in connection with said work from the park.

2.14 **Warning Signals at Danger Points**. Every person who does any act in any park, whether the act is done by that person or by an agent or at the person's direction, and whether the person is acting as principal, contractor, or employer, and by that act makes the park or any portion of it dangerous must erect and, so long as the danger continues, maintain around the portion of the park so made dangerous a good and substantial barrier, and shall maintain at appropriate places along such barrier, during every night, from sunset until daylight, flashing lights, flares or some other suitable light sufficient to give warning of said danger.

Article 3. Disorderly Conduct

Sec. 3.1 Disorderly Conduct.
Sec. 3.2 Swimming Restrictions.
Sec. 3.3 Polluting Waters Prohibited.
Sec. 3.4 Littering and Dumping of Waste Matter Prohibited.
Sec. 3.5 Malicious Destruction of Property.
Sec. 3.6 Removal of Trees, Wood, Etc.
Sec. 3.7 Penalties for Violation of Section 119.
Sec. 3.8 Interference with Port Commission and Park Employees.
Sec. 3.9 Alcoholic Beverages.
Sec. 3.10 Persons Intoxicated by Alcohol or Drugs May Be Excluded.
Sec. 3.11 Persons May Be Excluded Under Certain Circumstances.
Sec. 3.12 Refusal to Obey Lawful Order.
Sec. 3.13 Fighting, Disturbing Peace, Offensive Words.
Sec. 3.14 Intoxication by Alcohol or Drugs.
Sec. 3.15 Minors, Parents and Guardians Of.

3.1. **Disorderly Conduct**. No person shall, in any park, without written permission of the Executive Director:

(A) Throw or propel objects of a potentially dangerous nature, including, but not limited to, stones, bottles, glass, cans or crockery;

(B) Fire or carry firearms of any size or description, or possess any instrument, appliance or substance designed, made or adopted for use primarily as a weapon, including, but not limited to, slingshots, clubs, swords, razors, billies, explosives, dirk knives, bowie knives or similar knives, except that this subsection shall not apply to a police or other peace officer;

(C) Fire or carry any firecracker, rocket, torpedo or other fireworks of any description (this subsection shall not be deemed to contradict any provisions contained in Chapter VIII (Police Code) of the San Francisco Municipal Code);

(D) Carry or use a model airplane which is powered by liquid fuel or designed to be used with such fuel;

(E) Make, kindle, maintain or in any way use a fire except at places provided, designated and maintained by the Commission for such use;

(F) Climb or lie upon any tree, shrub, monument, wall, fence, shelter, fountain, statute, building, construction or structure;

(G) Emit, eject, or cause to be deposited any excreta of the human body, except in proper receptacles designated for such purposes;

(H) Expose his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region or any portion of the female breast at or below the areola thereof, except that this section shall not apply to children under the age of five years;

(I) Enter a restroom or toilet set apart for use of the opposite sex, except children under the age of five years accompanied by a parent or guardian and duly authorized personnel for the purpose of inspection, maintenance or repair;

(J) Gain or attempt admittance to facilities in any park where a charge is made, without paying that charge;

(K) Play any percussion instrument, including drums, at any time or location prohibited by resolution of the Commission when a sign has been posted in the area affected to give notice of this prohibition; provided that such resolution does not unreasonably curtail the playing of such instruments in any area of the city.

3.2 **Swimming Restrictions**. No person shall enter, wade or swim in the waters of any lake, pond, pool, tank, fountain or reservoir in any park except where permitted by regulation or special written permission of the Executive Director. This restriction does not prohibit persons from entering, wading or swimming in the waters of San Francisco Bay.

3.3 **Polluting Waters Prohibited**. No person shall throw or place, or cause to be thrown or placed, any garbage, trash, refuse, paper, container, or nauseous or offensive matter into any pool, pond, tank, or fountain in any park, or into the waters of San Francisco Bay..

In addition, attention is called to the fact that state law prohibits the littering or dumping of waste into lakes and other bodies of water.

3.4 **Littering and Dumping of Waste Matter Prohibited**. Attention is called to the fact that state law prohibits the littering or dumping of waste matter in any public park. In addition, attention is called to City and County of San Francisco Health Code Section 1150, prohibiting the release or dumping of hazardous waste on public property.

3.5 **Malicious Destruction of Property**. Attention is called to the fact that state law prohibits the malicious defacement, damage or destruction of real or personal property.

3.6 **Removal of Trees, Wood, Etc**. No person shall remove or take away any tree, wood, bush, turf, shrub, flower, plant, grass, soil, rock, or anything of like kind from any park without written permission of the Executive Director.

3.7 **Penalties for Violation of Section 3.6**.

(A) Any person convicted of a violation of Section 3.6 of this Code shall be punished by a mandatory fine of not less than $50 nor more than $500 upon a first conviction, by a mandatory fine of not less than $100 nor more than $500 upon a second conviction and by a mandatory fine of not less than $150 nor more than $500 upon a third or subsequent conviction.

(B) The court shall, in addition, impose a civil penalty or an amount necessary to reimburse the Commission for the value of the tree, wood, bush, turf, shrub, flower, plant, grass, soil, compost, rock, water or other material removed as well as any labor expended to replant or otherwise restore the area affected. Any revenue collected as a civil penalty pursuant to this Section shall be credited to the Commission.

3.8 **Interference with Port Commission Employees**. No person shall, with malice, interfere with or in any manner hinder any employee of the Commission or a duly authorized contractor while that person is engaged in constructing, repairing, or caring for any portion of the park or is otherwise engaged in the discharge of such employee's duties.

3.9 **Alcoholic Beverages**. No person shall consume alcoholic beverages of any kind in any building, children's playground, swimming pool, or restroom, except with the written permission of the Executive Director.

3.10 **Persons Intoxicated by Alcohol or Drugs May Be Excluded**. Members of the San Francisco Police Department and Port Commission employees, including members of a Park Patrol, are authorized to order persons to stay out of, or to leave, any park, or any facility, building or structure therein, when such officers or employees have reasonable cause to conclude that the person so ordered is under the influence of intoxicating liquor, any drug, or any "controlled substance" as that term is defined and described in the California Health and Safety Code, or any combination of any intoxicating liquor, drug, or controlled substance, and is in such a condition that he or she is unable to exercise care for his or her own safety or the safety of others or interferes with or obstructs or prevents the free use of park property.

3.11 **Persons May Be Excluded Under Certain Circumstances**. Members of the San Francisco Police Department and Commission employees, including members of a Park Patrol, are authorized to order any person to stay out of or to leave any park, or any facility, building or structure therein, when such officers or employees have reasonable cause to conclude that the person:

(A) Is consuming alcoholic beverages in violation of Section 3.10 of this Code;

(B) Is using any drug or controlled substance, as defined above, or any combination of any intoxicating liquor, drug, or controlled substance; or

(C) Is doing any act injurious to any park or any building, structure or facility therein;

(D) While using any athletic facility or area, disobeys any rule or regulation governing such area or facility after being warned not to do so by a Commission or Park Employee, including members of a Park Patrol, when the employee has reasonable cause to conclude that such behavior damages or risks damage to park property or interferes with the use and enjoyment

of such area or facility by other persons; or

(E) Behaves in so noisy, boisterous or rowdy a manner as to disturb spectators or participants at an athletic event.

3.12 **Refusal to Obey Lawful Order**. It shall be unlawful for any person to refuse to obey the lawful order of a police officer or an employee of the Commission made pursuant to Section 3.11 of this Code.

3.13 **Fighting, Disturbing Peace, Offensive Words**. Attention is called to the fact that state law prohibits unlawful fighting in public places, the malicious and willful disturbance of others by loud and unreasonable noise, and the use of offensive words in a public place which are inherently likely to provoke an immediate violent reaction.

3.14 **Intoxication By Alcohol or Drugs**. Attention is called to the fact that state law provides that any person in a public place who is under the influence of intoxicating liquor, drugs, or certain specified substances and endangers himself or others or interferes with the free use of a public way is guilty of disorderly conduct.

Minors, Parents and Guardians Of. No parent, guardian or custodian of a minor shall permit or allow such minor to do any act or thing in any park prohibited by the provisions of this Code.

Article 4. Animals

Sec. 4.1 Dogs, Cats Only Allowed.
Sec. 4.2 Animals Prohibited from Certain Areas.
Sec. 4.3 Cats Must Be on Leash or in Transport Box.
Sec. 4.4 Vicious Animals Prohibited.
Sec. 4.5 Abandonment of Animals Prohibited.
Sec. 4.6 Feeding Animals Prohibited.
Sec. 4.7 Disturbing Animals, Birds, Fish Prohibited; Exceptions.

4.1 **Dogs, Cats Only Allowed**. No person shall lead, drive, conduct or otherwise bring or allow to remain in any park any animal, bird, fish or reptile other than dogs and domestic cats. This Section shall not apply to persons acting pursuant to a permit from the Executive Director when the permit allows the presence of such animal, bird, fish or reptile. This Section shall not prohibit any person from transporting fish or shellfish legally caught in San Francisco Bay from the shoreline of any park across such park.

4.2 **Animals Prohibited From Certain Areas**. No person, other than members of the Police Mounted Detail when on duty, shall, in any park, allow any animal in his or her custody to enter any building, or any playground, sandbox or other area reserved for children, or to enter or drink the water of any drinking fountain, lake or pond located in any park, not including San

Francisco Bay, except at places designated and maintained for such purpose. Notwithstanding the above provision, a blind person may enter these areas with a guide dog.

4.3 **Cats Must Be on Leash or In Transport Box**. No person shall carry, lead, conduct or otherwise bring or allow to remain in any park a domestic cat unless the animal is on leash not exceeding six feet in length or in an animal transport box equipped with vent holes capable of providing the animal with sufficient air.

4.4 **Vicious Animals Prohibited.** No person shall keep or permit to remain in any park a noisy, vicious, or dangerous animal or an animal which unduly disturbs other persons in the park.

4.5 **Abandonment of Animals Prohibited**. No person shall abandon any animals in any park.

4.6 **Feeding Animals Prohibited**. It shall be unlawful for any person to feed or offer to any animal in any park any substance which would be likely to be harmful to it.

4.7 **Disturbing Animals, Birds, Fish Prohibited; Exceptions**. Except as provided in Article 7, Chapter VIII (Police Code) of the San Francisco Municipal Code, it shall be unlawful for any person, including City and County of San Francisco, its officers, employees or agents, to hunt, chase, shoot, trap, discharge or throw missiles at, molest, disturb, capture, injure, or destroy any animal in any park, or to permit any animal in such person's custody or control to do so; provided, however, than any mole or any gopher, mouse, rat or other rodent which is determined by said Executive Director to be a nuisance may be destroyed by said Executive Director or a designated representative; and provide, further, that any animal other than a mole or a gopher, mouse, rat or other rodent which is determined by said Executive Director to be a nuisance or a hazard to persons using said areas or to be a hazard to plants or other horticulture, may, in a humane manner, be live trapped by said Executive Director and delivered to the Animal Control Officer for disposition pursuant to the provisions of Sections 41.7 through 41.9, inclusive, of Article 1, Chapter V (Health Code) of the San Francisco Municipal Code. This Section shall not restrict in any way the rights of the public to fish in San Francisco Bay.

Article 5. Traffic Regulations

Sec. 5.1 Operation and Parking of Vehicles.
Sec. 5.2 Towing of Vehicles.
Sec. 5.3 Commercial Vehicles Prohibited.
Sec. 5.4 Parking of Sightseeing Buses.
Sec. 5.5 Transportation of Residential or Commercial Garbage.
Sec. 5.6 Soliciting Passengers for Vehicles Prohibited.
Sec. 5.7 Penalties.
Sec. 5.8 Exceptions

5.1 **Operation and Parking of Vehicles**.

(A) No person shall drive or propel any vehicle within any park except upon the paved roads, driveways, and highways provided or unpaved roads designated by sign or signal for use by such vehicular traffic;

(B) All persons operating vehicles must drive or propel them in a careful manner, at a lawful rate of speed, and in accordance with the rules and regulations of the Commission, San Francisco Traffic Code, Port of San Francisco Harbor Traffic Code and California Vehicle Code, as such rules we amended from time to time;

(C) No person shall drive or propel any vehicle on any planted area or on any access road or unpaved service road or fire trail in any park;

(D) No person shall park any vehicle on any lawn, or planted area, or unimproved area or on any pedestrian or equestrian lane, or on any access road or unpaved service road or fire trail or in any manner so as to block access to or exit from any pier, service road or access road or fire trail, or in any other place in the park where the rules and regulations of the Commission prohibit vehicular parking, unless allowed otherwise by permit;

(E) No person shall wash, grease, or repair any vehicle in any park except insofar as repairs may be necessary for the immediate removal of any damaged or disabled vehicle from the park;

(F) No vehicle shall be parked on any road, place or highway in any park except on the extreme side of said road, place or highway and immediately adjacent to an curb or any planted portion of the park. The Commission shall have full power and authority to set aside suitable space for the parking of any vehicle off any road, place or highway. The extreme right of said road, place or highway shall be deemed to be the right-hand side of any road, place or highway as measured or applied in the direction in which any vehicle is traveling. Nothing in this Section shall be deemed to prohibit parking on the extreme left side of any on-way road or highway, provided such parking is otherwise permitted, which side shall be deemed to be the left-hand side of any road or highway as measured or applied in the direction in which any vehicle is traveling.

(G) No person shall park any automobile or any other vehicle, including a horse trailer, whether attended or unattended, in any park, between the hours of 10:00 p.m. and 6:00 a.m. except (1) when attending an event or function authorized by the Commission or Executive Director, and then only when the person parks the vehicle in an area specifically designated for such parking in connection with said event or function; (2) when such parking is necessary because of an emergency, such as a flat tire or other mechanical failure, in which case the vehicle shall not be parked any longer than necessary; or (3) when a sign is posted or notice is otherwise provided that parking is permitted in a designated area between 10:00 p.m. and 6:00 a.m., or some portion of those hours.

(H) No person shall, in any park, allow any automobile or other vehicle to remain parked in any parking lot which is open for public use and for which a fee is charged for parking, for a period of more than 24 hours after the expiration of the period for which the fee is charged, unless otherwise allowed by permit.

(I) No person shall, in any park, allow any automobile or any other vehicle that is disabled to remain parked in any parking lot which is open for public use and for which a fee is charged for parking, unless otherwise allowed by permit.

5.2 **Towing of Vehicles**. Whenever any member of the San Francisco Police Department, employee or lessee authorized by the Commission finds any vehicle parked in violation of Sections 5.1(D), (E), (F), (G), (I), of this Code, such officer, employee or lessee may provide for the removal of such vehicle, so long as signs have been posted to inform the public that vehicles so parked are subject to removal and, with respect to Section 5.1(H), so long as there is an attendant on duty or other facilities permitting the patron to pay or remit the parking charges at the time the vehicle is first parked.

The procedure for removal and impounding of vehicles shall be as is provided for in applicable provisions of the San Francisco Traffic Code and Sections 22850 to 22855 of the California Vehicle Code.

Moreover, any vehicle stopped, parked or left standing in such a manner as to violate Sections 5.1(D), (E), (F), (G), (I), of this Code is an obstruction to the free use of property and a nuisance within the meaning of Part III of the Civil Code of California relating to nuisances and the abatement thereof.

5.3 **Commercial Vehicles Prohibited**. No person shall bring or cause to be brought into any park any vehicle designed, used or maintained primarily for the transportation of goods, food, beverage, wares, merchandise, soil, building material or other article or thing of commerce or trade unless such person is bring such vehicle into a park by written permission of the Executive Director.

5.4 **Parking of Sightseeing Buses**. No person shall park a sightseeing bus in any park unless such person (1) has obtained a permit from the Executive Director and paid any fee which may be required by the Commission for the issuance of such a permit and (2) parks in an area which has been designated by the Commission as a parking area for sightseeing buses, either by the posting of a sign or by written notice kept on file with Executive Director of the Commission and made available to any interested person upon request.

5.5 **Transportation of Residential Or Commercial Garbage**. It is unlawful to transport residential or commercial garbage within any vehicle within the confines of any park. "Garbage" shall include, but not be limited to, the following: Dry or wet fill, emptied food containers, metallic machinery parts, auto parts, refuse, offal, vegetables, paper, dirt, remains of food, newspapers, filth or rubbish. This section shall not apply to an authorized scavenger service which is servicing any facility or area in any park.

5.6 **Soliciting Passengers For Vehicles Prohibited**. No person shall solicit or arrange or contract or make any agreement for or establish or maintain any stand or other equipment for procuring customers or passengers for any carriage, coach, automobile, bus, horse drawn carriage or other vehicle, let or used for hire, in any park without first having obtained a permit to do so from the Commission. Nor shall any person drive or park a taxicab in any park for the purpose of procuring customers unless such person is responding to a call for a taxicab.

5.7 **Penalties**. A person who violates Section 5.1(C), (D), (E), (F) or (G) of this Code shall be guilty of an infraction and upon conviction thereof shall be punished for the first offense by a fine not to exceed $50; for the second offense committed within a one-year period by a fine not to exceed $100; for a third and each additional offense committed within a one-year's period by a fine not to exceed $250.

This Section shall not be deemed to contradict Section 137 of this Code concerning the towing of vehicles in violation of Section 136 (D), (F) or (G).

5.8 **Exceptions**. The provisions of this Article shall not apply to any person employed by the City and County of San Francisco, while in the discharge of authorized duties and while operating an official vehicle or any other vehicle with an appropriate permit displayed.

Article 6. Permits

Sec. 6.1 Permits-Purpose
Sec. 6.2 Definitions.
Sec. 6.3 Permits Required.
Sec. 6.4 Additional Activities Requiring Permits.
Sec. 6.5 Permit Procedure.
Sec. 6.6 Conditions.
Sec. 6.7 Permits-Basis for Denial
Sec. 6.8 Petitioning, Leafletting, Picketing, Soliciting.
Sec. 6.9 Reservations of Buildings.
Sec. 6.10 Sales Prohibited at Art Shows.
Sec. 6.11 Commercial Photography, Filming, Recording.
Sec. 6.12 Permits-Athletic Events.
Sec. 6.13 Permit Requests by Governmental Units.
Sec. 6.14 Permits-Rights Granted.
Sec. 6.15 Duties of Permittee.
Sec. 6.16 Permits-Failure to Obtain.
Sec. 6.17 Procedure for Billing Costs.
Sec. 6.18 Violation of Permit Conditions.
Sec. 6.19 Appeal.

6.1 **Permits-Purpose**. Although the First Amendment of the U.S. Constitution and Article 1, Section 9 of the California Constitution guarantee freedom of speech and association, the City and County of San Francisco is authorized to impose reasonable restrictions on the time, place and manner of such expression. In accordance with this right, the Commission requires permits for certain activities which occur on park property in order (1) to coordinate activities planned by different groups so that as many people as possible can use and enjoy the park at the same time; (2) to learn the details of the proposed activity in order to establish rules in order to establish rules aimed at preventing inconvenience or harm to the public or the park; (3) to require appropriate insurance in order to relieve the Commission of liability from any harm that occurs;

and (4) to insure that recreational facilities most suited for the activity are used.

6.2 **Definitions**. For the purposes of this Article, the following terms shall be defined as indicated below:

(A) **Amusement Park Rides**- Rides of the type normally found in amusement parks or carnivals, such as ferris wheels.

(B) **Animal Show**- The formal exhibition of animals to the public or to a group of 25 or more persons for entertainment or competition.

(C) **Art Shows**- The exhibition or display of paintings, sculptures or other works of art, but not activities performed by street artists licensed pursuant to Part II, Chapter VIII (Police Code) of the San Francisco Municipal Code.

(D) **Band**- A group of musicians playing acoustical instruments normally played in a brass band.

(E) **Demonstration**- Carrying or wearing a sign or signs, singing, talking in unison or in any other manner expressing ideas, advocating causes or conveying a message to the public at large or to a particular person or persons.

(F) **Exhibition**- Public display of manufactured goods, plants or other objects but not displays by street artists licensed pursuant to Part II, Chapter VIII (Police Code) of the San Francisco Municipal Code.

(G) **Leafletting**- Distributing leaflets, handbills, notices or any written material to the public.

(H) **Orchestra**- A group of musicians playing string, percussion, brass and wood wind instruments.

(I) **Parade**- Any march or other organized movement or person from place to place or about a place.

(J) **Petitioning**- Requesting persons to sign a petition.

(K) **Publicize**- To inform the public of a planned event by means of newspaper articles or notices, radio or television stories or notices, announcements in public places, leafletting, posting signs or written notices in places viewed by the public, or by other means calculated to notify the public of an event.

(L) **Soliciting**- Requesting persons to contribute money or anything else of value for charitable, religious or political cause.

6.3 **Permits Required**. No person shall, without a permit, perform any of the following acts in any park:

(A) Conduct or sponsor a parade involving (1) 50 or more persons; (2) the use of any street in any park; or (3) vehicles.

(B) Conduct or sponsor an event in which persons engage in petitioning, leafletting, demonstrating or soliciting when the number of petitioners, leafletters, demonstrators, or solicitors engaging in one or more of these activities involves 50 or more such persons at the same time within an area circumscribed by a 500 foot radius.

(C) Sell or offer for sale books, newspapers, periodicals, or other printed material.

(D) Conduct or sponsor any exhibit, promotion, dramatic performance, theatrics,

pantomime, dance, fair, circus, festival, juggling or other acrobatics or show of any kind or nature which has been publicized four hours or more in advance.

(E) Perform any feat of skill or produce any amusement show, movie or entertainment which has been publicized four hours or more in advance.

(F) Make a speech which has been publicized four hours or more in advance.

(G) Conduct or sponsor a religious event involving 50 or more persons;

(H) Conduct or sponsor a concert or musical performance which (1) has been publicized four hours or more in advance, or (2) utilizes sound amplification equipment, or (3) involves a band or orchestra.

(I) Participate in a picnic, dance or other social gathering involving 25 or more persons.

(J) Sell or provide food to persons, except that no permit is required when a person participating in a picnic or social gathering of 25 or fewer persons provides food to others who are also participating in the picnic or social gathering.

(K) Conduct or sponsor a race or marathon which involves 25 or more persons as participants or which obstructs or interferes with the normal flow of vehicular or pedestrian traffic.

(L) Conduct or sponsor any event which utilizes sound amplification equipment, as defined in Part II, Chapter VIII (Police Code) of the San Francisco Municipal Code.

(M) Conduct or sponsor an exhibition.

(N) Conduct or sponsor an animal show.

(O) Conduct a wedding ceremony.

(P) Conduct or sponsor an art show.

(Q) Operate any amusement park device. The Commission or the Executive Director may prohibit the operation of such devices in any park or, if it allows such operation, may designate those locations where such operation is permitted.

(R) Conduct or sponsor an organized kite-flying event of any club or organization.

(S) Station or erect any table scaffold, stage, platform, rostrum, tower, stand, bandstand, building, fence, wall, monument, dome or other structure.

(T) Park any vehicle in any park in an area not normally used for parking vehicles or in an area normally used for parking vehicles when the vehicle is used in conjunction with an activity for which a permit is obtained pursuant to a provision of this Code other than this subsection.

6.4 **Additional Activities Requiring Permits**.

(A) Attention is called to other provisions of this Code which require persons engaging in certain activities to obtain a permit, including, but not limited to, the following:

(1) Launching or landing any airplane, seaplane, helicopter, parachute, hang glider, hot air balloon or other machine or apparatus of aviation, in any park, or bringing into a park any balloon with a diameter of more than six feet or a gas capacity of more than 115 cubic feet;

(2) Bringing, or causing to be brought, for the purposes of sale or barter, or having for sale, or selling or exchanging, or offering for sale or exchange any food, beverage, goods, wares or merchandise;

(3) Constructing or maintaining any building, structure, tent or any other thing in any park that may be used for housing accommodations or camping;

(4) Remaining in any park for the purpose of sleeping between the hours of 10:00 p.m. and 6:00 a.m. in order to provide security services between said hours in any park.

(B) The Commission may by resolution require a permit for additional activities when such a requirement further the purposes set forth in Section 6.1 of this Code.

6.5 **Permit Procedure**. The Commission shall by resolution adopt procedures for the filing and processing of permit applications, which resolution shall be filed with the Port Commission and shall be made available to the public upon request. The resolution required by this Section, as well as any amendment thereto is subject to the approval of the City Attorney. The Executive Director is hereby authorized to make any non-substantial amendments to such permit procedures necessary for the efficient administration of the permit process.

6.6 **Conditions**.

(A) The Executive Director or the Commission may impose reasonable conditions on approval of a permit application that are specifically designed to protect public or private property from damage and to preserve the comfort, convenience, safety or welfare of the public. Such conditions may be imposed on a permittee after the permit application has been approved if information has been received by the Executive Director after such approval which would provide reasonable grounds for the conclusion that further conditions are necessary, including the condition that the location of the proposed activity be changed. The provisions of this Section are designed to secure for permit holders an opportunity fully to exercise the rights conferred upon them by the permit without unreasonably interfering with the rights of other members of the public to use park property and adjacent areas or to engage in First Amendment activities. The Executive Director shall in no event impose conditions pursuant to this Section which are designed to limit the content of First Amendment expression engaged in by persons affected by the permit or which unreasonably interfere with the right of free speech.

(B) The conditions which may be imposed on permit applicants include the following: (1) posting a performance bond to insure the property is restored and cleaned at the conclusion of the permitted activity; (2) providing insurance to protect the City from liability from any harm that such activity might cause; and (3) agreeing to reimburse the Commission for any costs incurred by it in restoring damage to property caused by the actions of the permittee, its officers, employees, or agents, or any person who was, or reasonably should have been, under the permittee's control and to defend the City against, and indemnify and hold the City harmless from, any liability to any person resulting from any damage or injury cause by the actions of the permittee, its officers, employees, or agents, or any person who was or reasonably should have been, under the permittee's control.

(C) When an applicant for a permit to perform an activity which is protected by the First Amendment to the U.S. Constitution and for which a performance bond must be posted produces evidence that providing a cash performance bond would be impossible or so financially burdensome that it would preclude the applicant from using park property for the proposed activity, the Executive Director shall accept property in lieu of a cash performance bond so long as the property offered is of a type which will reasonably insure restoration and cleaning of the property to be used by the applicant at the conclusion of the permitted activity.

(D) No applicant shall be required to comply with the provisions of Subsection (B)(2) pertaining to insurance if the activity proposed is protected by the First Amendment of the U.S. Amendment of the U.S. Constitution and the applicant produces evidence that complying with those provisions is impossible or so financially burdensome that it would preclude the applicant from using park property for the proposed activity.

6.7 **Permits-Basis For Denial**. The Executive Director shall approve a permit application unless:

(A) A written application for a permit to use the same location at the same time has been received and such application has been or will be approved authorizing an activity which does not reasonably permit multiple occupancy of the area;

(B) The proposed activity would conflict with a previously planned program sponsored by the Commission and scheduled for the same location as that requested by the applicant;

(C) The Executive Director has reasonable cause to conclude, based upon the inherent nature of the activity, that the applicant or any person or persons participating in the proposed activity will, in connection with that activity, cause physical injury to person or substantial damage to property; provided, however, that in determining whether such reasonable cause exists the Executive Director shall not consider the content of expression which is proposed or anticipated;

(D) The proposed activity is inconsistent with the purpose for which the facility or area has been established or designated;

(E) The location selected is inappropriate because (1) the nature of the proposed activity or the number of person expected in connection with the activity would be likely to damage trees, plants or other vegetation; (2) the activity would unduly disturb adjacent neighborhoods because of the nature of the proposed activity or the number of persons expected to be involved; or (3) other activities have been scheduled in an area or areas near the location proposed by the applicant, or they normally occur in such area or areas, and permitting the proposed activity to occur in the proposed location would unreasonably interfere with park use and enjoyment by participants in such activities;

(F) The applicant fails to obtain necessary approvals, permits, or licenses from other governmental departments or agencies;

(G) The applicant has not complied with the procedural requirements established by Commission resolution for the filing of permit applications;

(H) The applicant fails or refuses to pay a processing fee or a user fee, or both, which the Commission has established by resolution;

(I) The applicant fails or refuses to post a performance bond when required to do so by the Commission;

(J) The applicant fails or refuses to provide insurance when required to do so by the Commission;

(K) The applicant fails or refuses to execute an agreement to reimburse the Commission for any cost incurred by it in restoring damage to the property occasioned by, or arising out of, the permitted activity, and to defend the City against and indemnify and hold the City harmless from, any liability to any person occasioned by, or arising out of, the permitted activity, when such an agreement is required by the Commission;

(L) The application contains misrepresentations of material fact;

(M) The proposed activity is prohibited by law;

(N) The applicant refuses to comply with conditions reasonably imposed on approval of the permit application by the Executive Director or the Commission in order to insure that public or private property is not damaged and that the comfort, convenience, safety and welfare of the public are not disturbed;

(O) The proposed activity is required to be put out for bid under the City's or Port's retail leasing policy.

Whenever a permit application is denied, the Executive Director shall inform the applicant of the reason for the denial and when a change in location would allow approval, shall offer alternative suitable locations.

6.8 **Petitioning, Leafletting, Picketing, Soliciting**.

(A) No permit may be required to engage in petitioning, leafletting, demonstrating or soliciting so long as engaging in any of these activities, or any combination of these activities, does not involve 50 or more petitioners, leafletters, demonstrators, or solicitors at the same time within an area circumscribed by a 500-foot radius.

(B) It shall be unlawful for any person to engage in petitioning, leafletting, demonstrating or soliciting in such a manner as to substantially obstruct any traffic of pedestrians or vehicles after being warned by a peace officer or a member of the Park Patrol not to do so.

(C) Where the park is a frequent site for the issuance of permits involving large groups of people for events requiring exclusivity, in order to prevent interference with the progress and enjoyment of these events, no person may engage in petitioning, leafletting, demonstrating or soliciting in these parks while an event is in progress for which a permit has been issued by the Commission or Executive Director except in those areas designated as public assembly areas. No person shall be considered in violation of the prohibition contained in this subsection until he or she has been informed by a member of the San Francisco Police Department, a member of the Park Patrol, or a member of the Commission who displays proper identification of such employment that the event is being conducted pursuant to a valid permit or until the permit pursuant to which the event is being conducted has been shown to such person.

6.9 **Reservation of Buildings**. The procedure for reserving the use of any building in any park shall be established by the Commission and shall be kept on file with the Commission and made available to the public upon request.

6.10 **Sales Prohibited at Art Shows**. When conducting or participating in an art show in any park, no person shall sell or offer for sale any work of art unless the permit authorizing the art show allows such sales.

6.11 **Commercial Photography, Filming, Recording**. No person shall engage in commercial photography, filming or recording in any park without first having obtained a permit. The procedure for obtaining such permits shall be established by the Commission and shall be kept

on file with the Commission and made available to the public upon request.

6.12 **Permits-Athletic Events**. Athletic areas and structures, such as baseball diamonds, soccer pitches, football fields, and swimming pools may be reserved by obtaining a permit from the Commission.

6.13 **Permits Requested by Governmental Units**. Any processing or user fee established by the Commission for the use of park property may be waived where the applicant is the United States of America, the State of California or subdivision thereof, an agency or commission of the City and County of San Francisco, or other governmental unit.

6.14 **Permits-Rights Granted**. Any person possessing a valid permit, which states that an area has been reserved for such person's use, has the exclusive right to use the area or facility specified in the permit for the time specified. It shall be unlawful for any person to refuse to leave an area or facility which has been reserved by a valid permit when asked to do so by the person nor party displaying such permit, by a Commission employee, by a police officer, or by a member of the Park Patrol, and no person shall in any manner disturb or interfere with any person or party occupying the area under such a permit, nor with the belongings of such person or party.

6.15 **Duties of Permittee**. It shall be the duty of every permittee:

(A) To obey all laws and the terms and conditions of the permit;

(B) To clean the area used after the permitted activity is over and to restor the area and property used to the same condition as existed prior to the activity; and

(C) To reimburse the Commission for any expenses incurred by it, including the cost of labor, in cleaning and restoring the park or making repairs to property and equipment, which expenses may be occasioned by the permitted activity.

6.16 **Permits-Failure to Obtain**. It shall be unlawful for any person to conduct or sponsor any activity which requires a permit without first having obtained the appropriate permit and, when requested to do so by a Commission employee, a member of the Park Patrol, or by a police officer, displaying such permit. Furthermore, it shall be unlawful to participate in such an activity with knowledge that it is being conducted without a permit when a permit is required pursuant to this Code.

6.17 **Procedure for Billing Costs**. Within 30 days of the exercise of any permit, the Executive Director shall determine and transmit to the permittee a bill for all cost above and beyond normal cleaning cost which are or will be incurred by the Commission in cleaning or restoring any park or making repairs to property and equipment, which costs were occasioned by, or arose out of, or arose out of, the activity engaged in pursuant to the permit. The permittee shall have 30 days from the transmission of such bill in which to pay or request adjustment of the same. Any request for adjustment shall be transmitted in writing to the Executive Director, who shall determine whether an adjustment is proper. The permittee shall pay the bill or adjusted bill promptly upon transmission to the permittee of a statement of the determination of the Executive

Director with respect to the adjustment. Any request for adjustment shall be deemed waived if not timely or if not transmitted in writing.

6.18 **Violation of Permit Conditions**. Whenever a permittee or those under the control of the permittee violate any condition contained in the permit, a member of the San Francisco Police Department may revoke the permit. It shall be unlawful for any person to continue to engage in an activity for which a permit was required and issued after the permit has been revoked pursuant to this Section, provided, however, that no person shall be in violation of this Section until notice has been given that the permit has been revoked.

6.19 **Appeal**. The Commission shall by resolution adopt procedures for the appeal of the denial of a permit application to the Commission or, in those instances when a quorum of the Commission cannot be convened in a timely manner, to the Executive Director. The Commission or the Executive Director shall afford the applicant an opportunity for a hearing and may reverse, affirm or modify in any regard the determination of the Executive Director concerning the denial of a permit application. When the Commission affirms the denial of a permit application such a decision shall be based on one or more of the reasons listed in Section 6.7 of this Code. This duty may not be delegated.

Article 7. South Beach Park

Sec. 7.1 .Wheeled Equipment Prohibited.

7.1 **Wheeled Equipment Prohibited**. No person, other than employees or agents of the Commission, the Redevelopment Agency, or its respective contractors when on duty, shall bring any wheeled conveyances, including but not limited to trucks, cars and skateboards, into South Beach Park except when acting pursuant to a permit issued by the Commission or its designee. Notwithstanding the above provisions, wheelchairs, stroller and toys appropriate for preschool children, such as wagons and tricycles, may be brought into South Beach Park without a permit. Bicycles may be walked through the park or locked in designated locations without a permit.

Article 8. Severability

Sec. 8.1 Severability.

8.1 **Severability**. If any of the provisions of this Code, or the application of such provisions to any person or circumstance, shall be held invalid, the remainder of this code, or the application of such provisions to persons or circumstances other than those to which it is held to be invalid, shall not be affected thereby.

Article 9. Penalties

Sec. 9.1 Penalties.

9.1 **Penalties**. Unless otherwise specified in this Code, any person violating any section of this Code shall be deemed guilty of a misdemeanor or an infraction. The complaint charging such violation shall specify whether the violation is a misdemeanor or infraction, which decision shall be that of the District Attorney; provided, however, that whenever a person has been arrested and incarcerated based solely on the violation or violations of this Code, he or she shall retain the right at the time of arraignment or plea to object to the offense being made an infraction, in which event the complaint shall be amended to charge the misdemeanor and the case shall proceed on the misdemeanor complaint.

Upon convictions of a violation charged as an infraction, the person so convicted shall be punished for the first offense by a fine of not less than $10 nor more than $50, and for a second and each additional offense by a fine of not less than $20 nor more than $100.

Upon conviction of a violation charged as a misdemeanor, the person so convicted shall be punished by a fine of not more than $500 or by imprisonment in the County Jail for a period of not more than six months, or by both such fine and imprisonment.

Sec. 10.1 Police Authority.

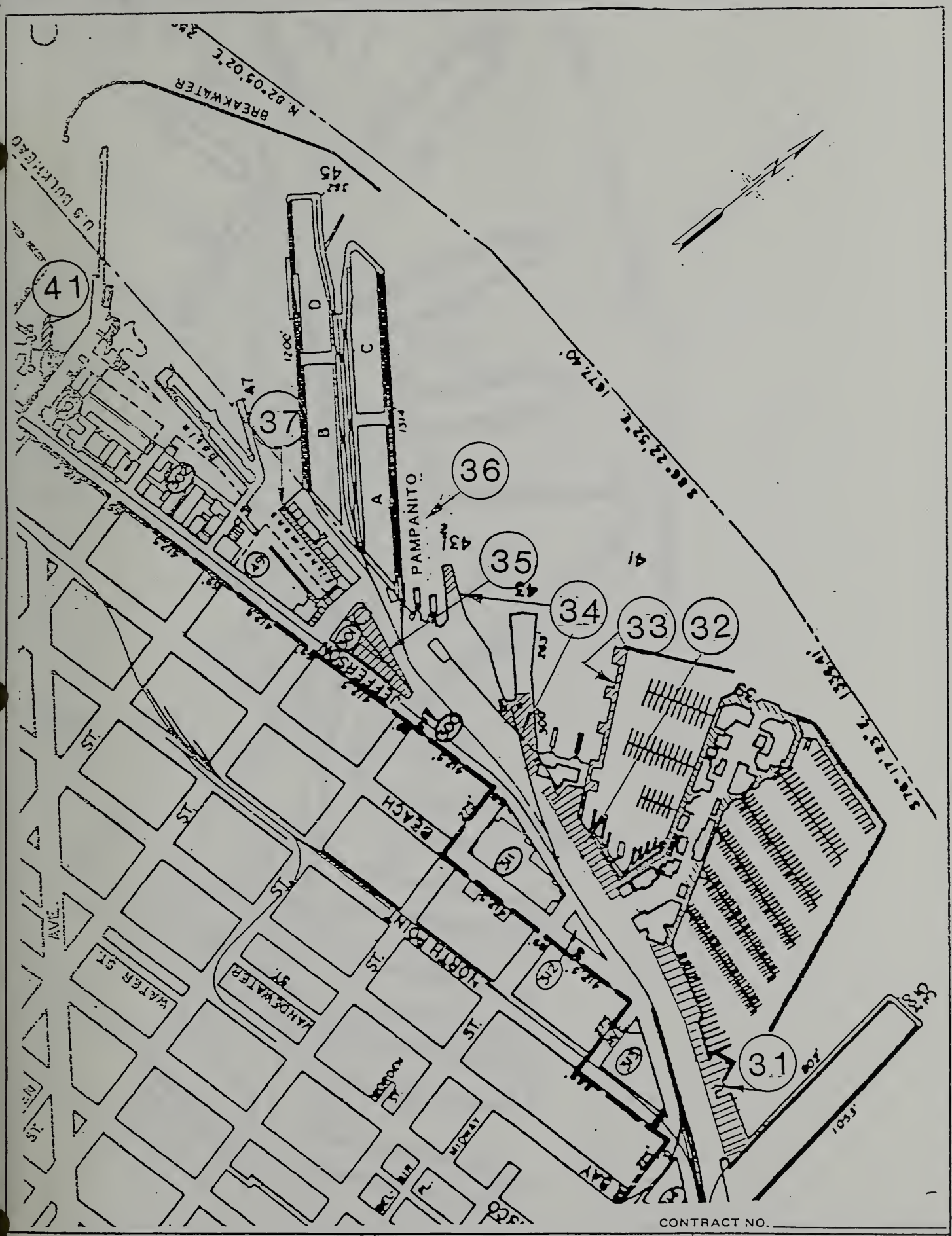
10.1 **Police Authority**. The Commission shall authorize peace officers or employees of the Commission to carry out the provisions of this code.

APPENDIX A

PORT PROPERTY UNDER PARK CODE

That Certain Property under the Jurisdiction of the Port of San Francisco That Is Open for Public Access, Listed below and Shown on the Maps Attached Hereto. The Numbers Set Forth or the Attached Maps Correspond to the Numbers Listed Below:

1. India Basin Shoreline Park
2. Pier 98 - Existing wetlands
3. Pier 98 - Planned wetlands enhancement and passive recreation park
5. Friends of Islais Creek public access improvements
6. Department of Public Works public access improvements
7. Department of Public Works public access improvements
8. Warm Water Cove Park and fishing pier
9. Agua Vista Park
11. Pier 52 Boat Launch and Service Engineering public access improvements
13. Mission Creek Harbor Association public access improvements
14. South Beach Park - Phase Two
15. South Beach Park - Phase One
16. South Beach Yacht Harbor public access improvements
20. Embarcadero Promenade between Pier 22 ½ and The Agriculture Building
21. SWL 347N Urban Plaza
23. Ferry Plaza public access improvements and ferry passenger terminal
24. Pier ½ public access improvements
25. Ferry Boat Santa Rosa public access
26. Pier 7 public access and fishing pier
27. Waterfront Restaurant public access improvements
28. Pier 23 public access improvements
30. Cruise terminal viewing deck at Pier 35
31. East Wharf Park
32. Pier 39 and Underwater World public access improvements
33. Pier 41 public access pier
34. Pier 43 and 43 ½ public access areas
35. Fisherman's Wharf Triangle Lot public access improvements
36. Pier 45 public access near historic submarine "Pampanito"
37. Inner Lagoon boardwalk
41. South End Rowing Club Public Sun Deck



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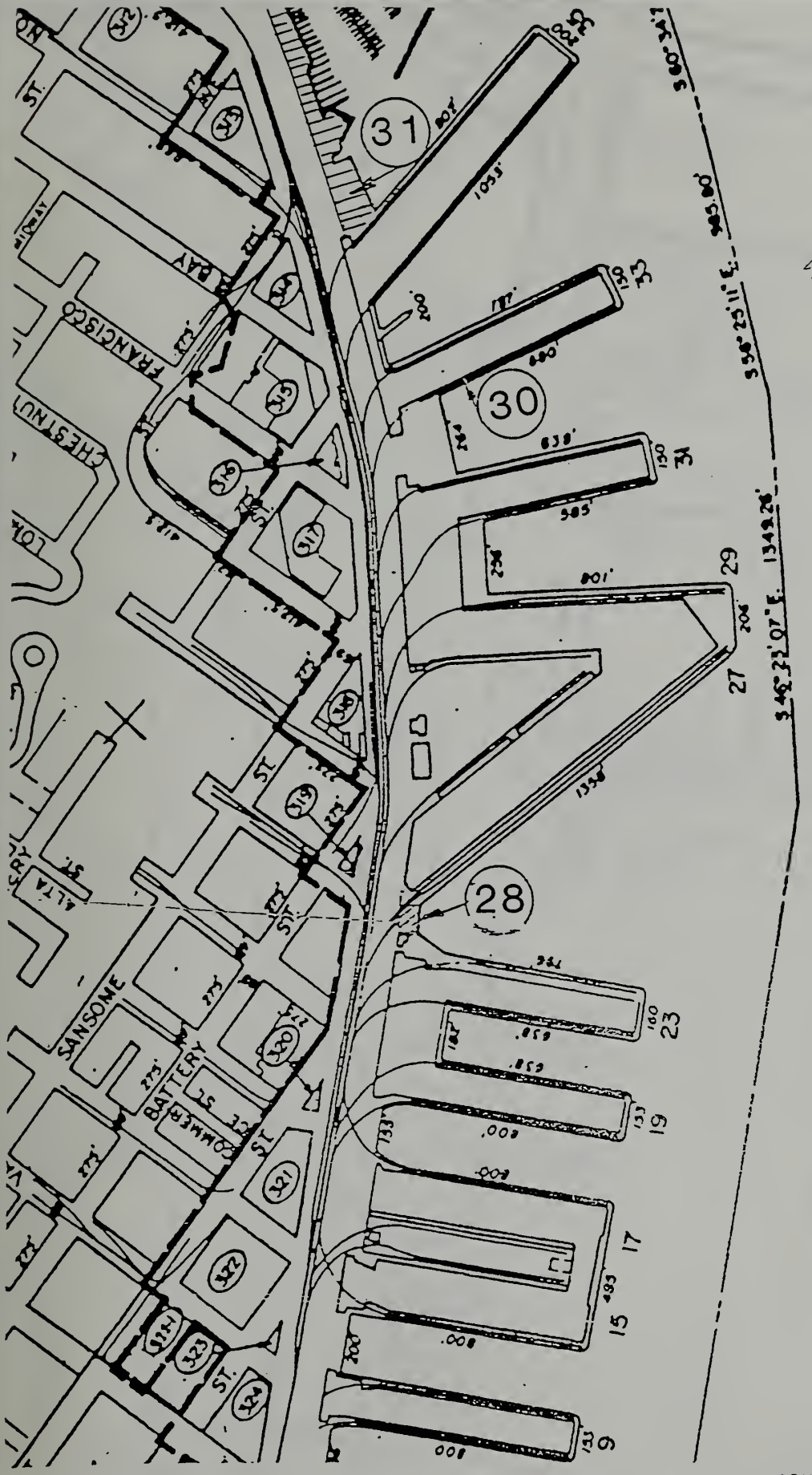

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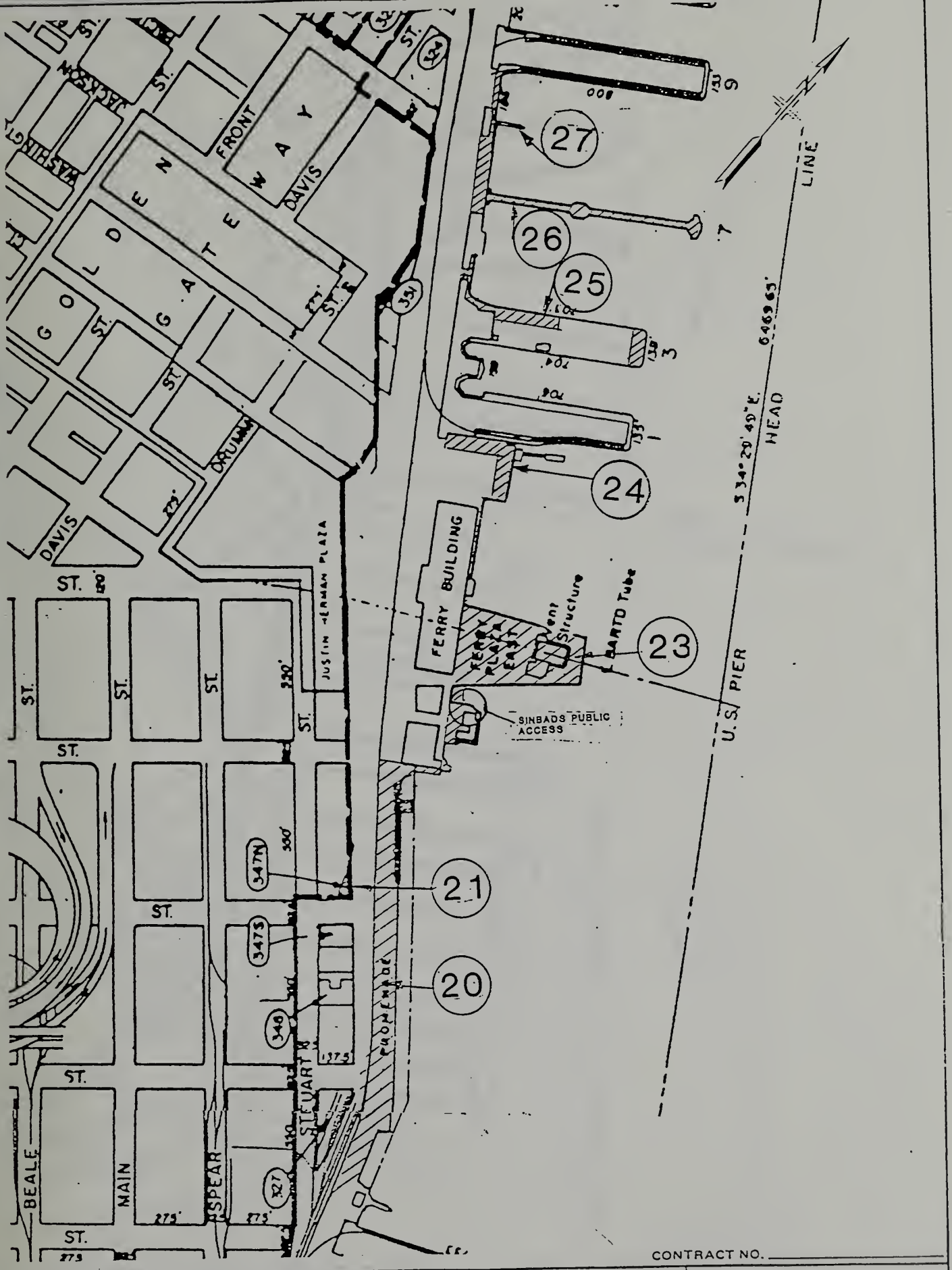

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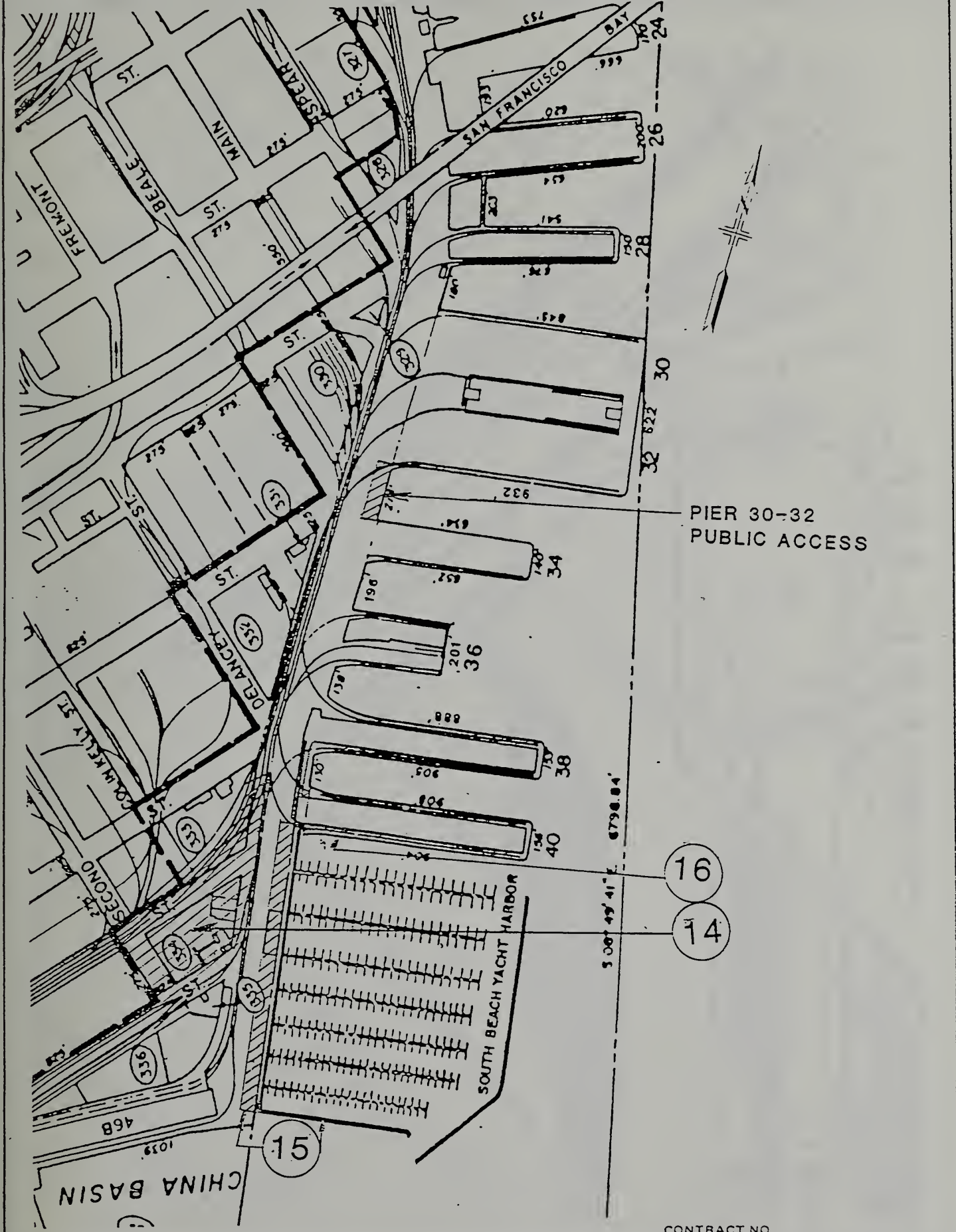

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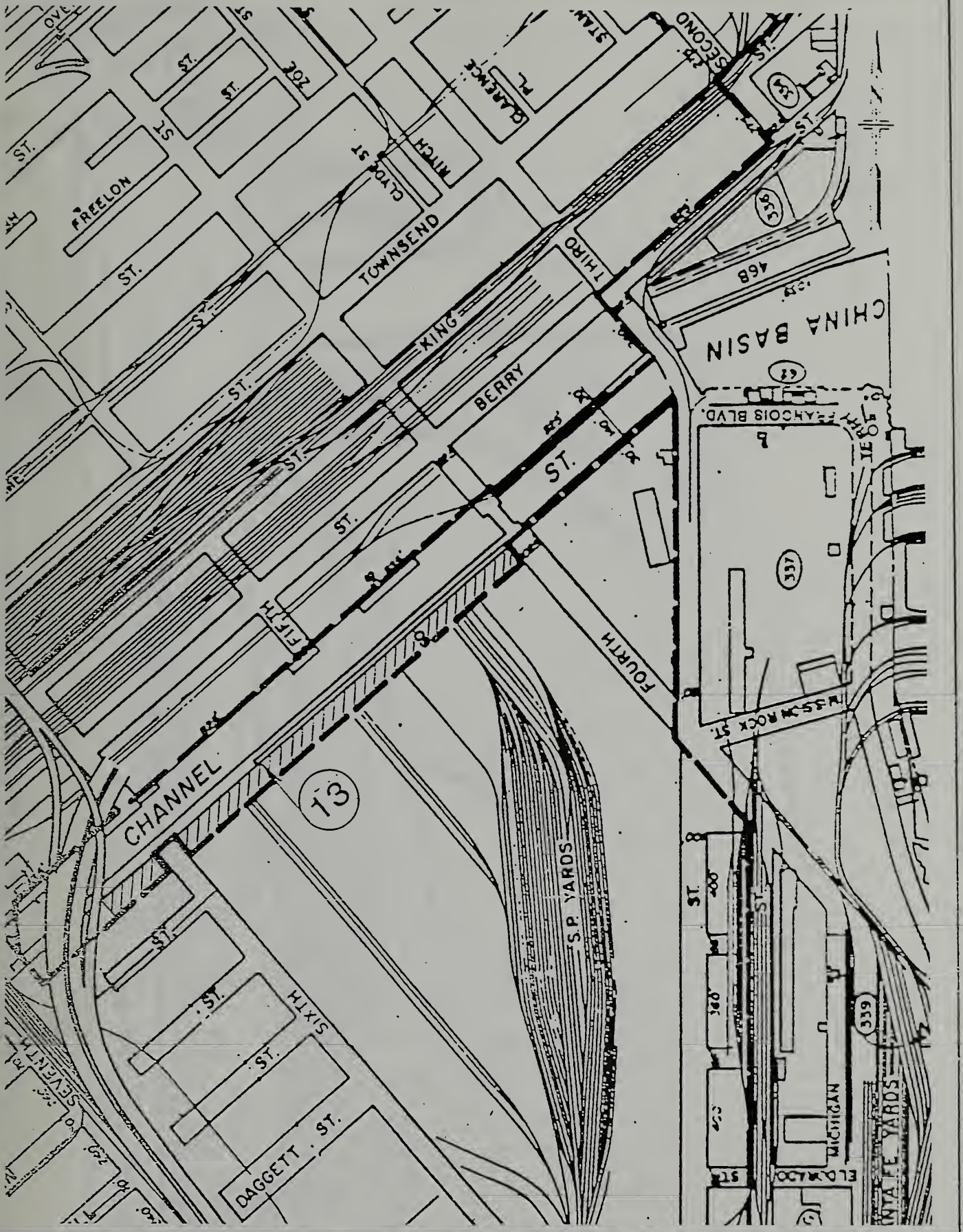

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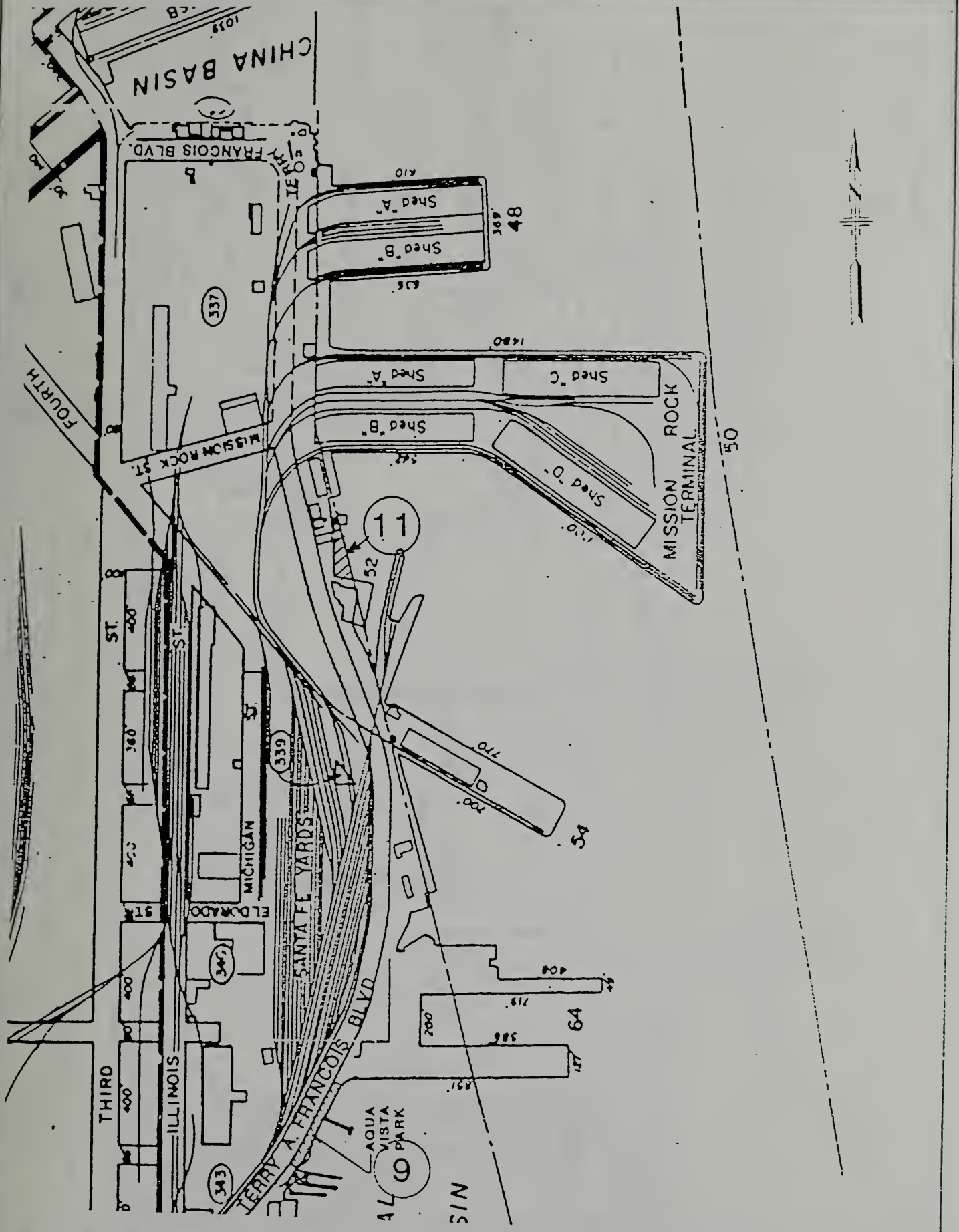

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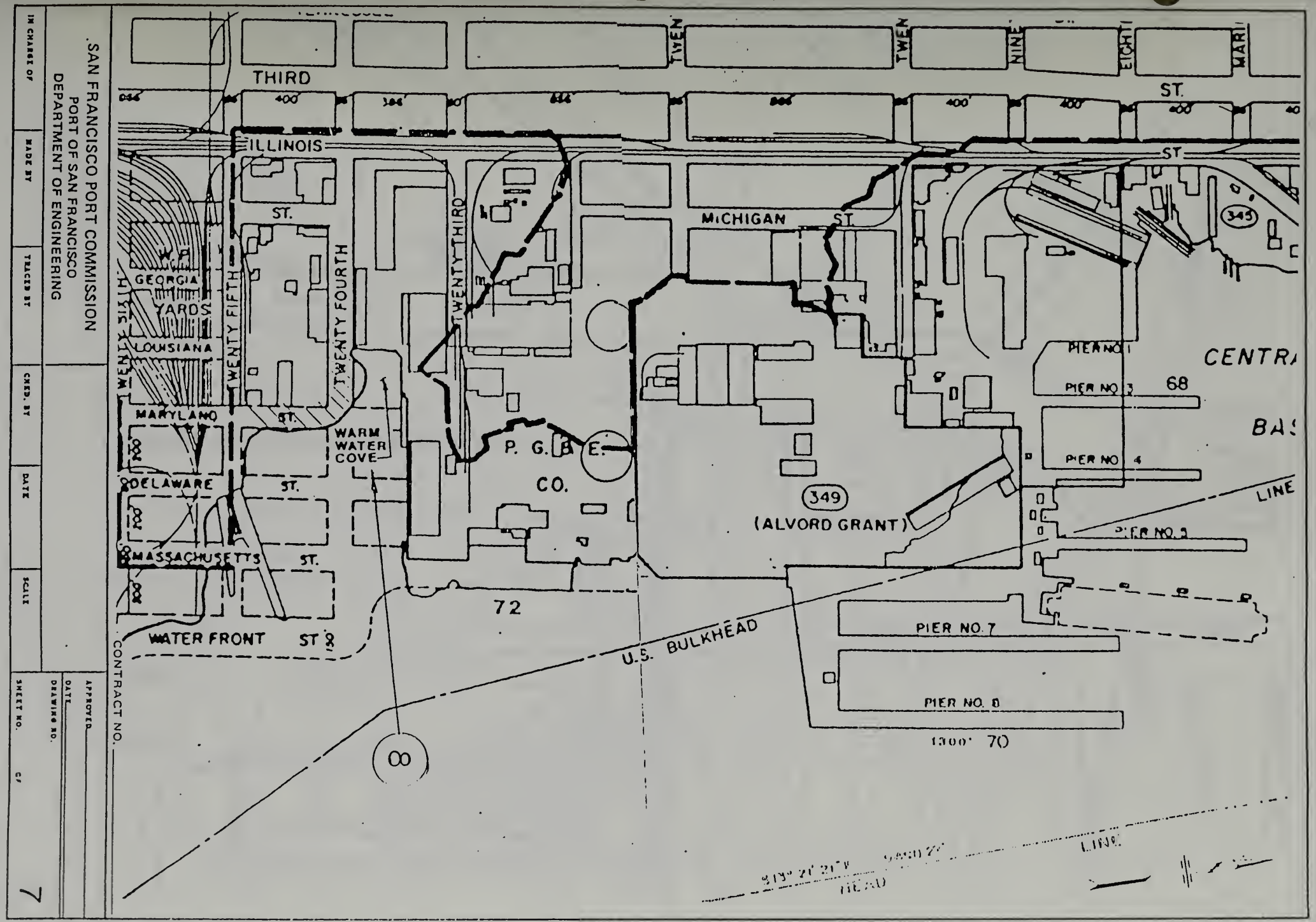
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SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

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Exhibit 1

PORT PARK RULES AND REGULATIONS

PERMIT AND RESERVATION REGULATIONS FOR PARKS UNDER PORT COMMISSION JURISDICTION

I. GENERAL INFORMATION

A. AUTHORITY. Under the Burton Act and Charter Section 3.581, the Port has the complete authority to manage, regulate and control the harbor of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of the Port property. Pursuant to this authority, the San Francisco Port Commission has adopted a Port Park Code ("Park Code") regulating activities in designated public access areas to protect visitors from safety hazards, prevent damage to the property and facilitate special event coordination. and perform other regulatory functions for certain public park property ("Parks" or "Park"). Sections 6.5 and 6.19 of the Park Code require that regulations be adopted governing the filing and processing of permits to engage in various activities in Parks, and several other sections of the Park Code allow regulations to be set governing other matters.

B. APPLICABILITY. These Permit and Reservation Regulations ("Regulations") apply in all Parks subject to the Park Code. Where a provision of these Regulations applies only to a certain Park or portion of a Park, that limitation is explicitly noted.

C. DEFINITIONS. Capitalized words or phrases will have the meanings set out in parenthesis when they are first used. For purposes hereof, the term "Commission" shall refer to the San Francisco Port Commission, the Executive Director, or their designee.

II. PROCEDURE FOR OBTAINING ALL PERMITS REQUIRED BY THE PARK CODE

A. APPLICATIONS

1. Deadlines for filing.

(a) Except for permits for events with an expected attendance of 500 or more ("Large Events") and permits for the sale of food or distribution of free food, written application for any permit required by the Park Code must be made to the Commission at least fifteen (15) business days in advance so that the Commission will have adequate time to process requests properly, meet with interested parties, and coordinate with other affected entities.

(b) Written applications for permits for Large Events or for the sale or distribution of free food must be made to the Commission at least thirty (30) business days in advance so that the Commission will have adequate time to prepare for the activity.

(c) The time requirements in this section for advance applications may be waived by the Commission, upon request in writing by the applicant, if the Commission determines that the event or events for which the permit is sought do not reasonably allow an applicant time to file a permit application within the required time or if an unusual event or combination of events renders such requirement an unreasonable restriction on the right of free speech.

2. Contents. Applications must include the following information:

(a) The name, address and telephone number of the applicant;

(b) The name(s) of all sponsoring, participating and/or performing groups;

(c) A description of the activity for which a permit is sought;

(d) The date, starting time, place and the estimated length of time of the event;

(e) The number of persons that are expected to attend and the reasons for anticipating such a number;

(f) For Large Events, an acknowledgment that the granting of the permit is conditioned upon development by the applicant of a transportation management plan detailing measures for minimizing traffic and promoting public transit use, as well as plans for minimizing litter, congestion and noise at the preferred or desired location and the surrounding areas that would be affected by the proposed event;

(g) Where the applicant is an individual, the signature of the applicant, and where the applicant is an entity other than an individual, the signature, name, address and telephone number of the individual executing the application on behalf of the applicant; and

(h) Other relevant information reasonably requested by the Commission.

B. PROCESSING OF APPLICATIONS

1. Time for processing.

(a) Fully completed permit applications for the same desired location will be processed in order of receipt. Revision of an application will not cause an application to lose priority as to the location desired, unless the revision includes a request for a new location.

(b) Fully completed permit applications received less than thirty (30) business days

but more than fifteen (15) business days prior to the date of the proposed event will be processed within ten (10) business days. Such applications will be deemed processed if the approval or denial is mailed to the address contained in the permit application or is communicated orally to the applicant within ten (10) business days after the day it is received. A copy of any written approval or denial of an application will be kept on file by the Commission for at least six (6) months and shall be made available to the applicant upon request.

(c) Fully completed permit applications received thirty (30) business days or more before the date of the proposed activity will be processed as time allows, but in no event will notice of approval or denial be mailed or communicated less than twenty (20) calendar days prior to the date of the proposed activity.

(d) Permit applications received less than fifteen (15) business days in advance will be processed within a reasonable time, provided that the Commission has waived the advance application requirement as set forth in Section II. A. 1 (c) above. At the time that the applicant is notified of such waiver, the Commission will inform the applicant when his or her application is expected to be acted upon.

2. Incomplete applications. An incomplete permit application will be returned to the applicant with an explanation as to why it is incomplete whenever the Commission has insufficient information to enable it to process the application.

3. Notice of denial. Notice of the denial of a permit application will be accompanied by a statement of the grounds upon which the application was denied.

4. Revised applications. If a permit application is revised, the time within which the application must be processed will be computed from the date of the revision.

C. GENERAL CONDITIONS OF PERMITS

1. Basis for conditions on each permit. In order to insure that public enjoyment of the Parks and the public's comfort, convenience, safety and welfare are not disturbed and that public or private property is not damaged, the Commission may impose reasonable conditions on approval of permit applications, including but not limited to, the conditions that the applicant provide debris boxes, chemical toilet units, protective coverings, monitors, transportation management measures and security personnel, and that the applicant ensure that any stage, booth, platform, tent or other erected structure complies with applicable City codes.

2. Publicity. Applicants are hereby advised that any publicity by the applicant before a permit is issued is undertaken at the applicant's own risk.

3. Sound amplification. Applicants are hereby advised that City ordinances

regulate the use of amplified sound and require the issuance of sound amplification permits by the Police Department.

4. Planning with other entities. Prior to issuing a permit, the Commission may consult or require the applicant to consult with the Police Department, Municipal Railway, Fire Department, Health Department, Emergency Ambulance Service, Department of Public Works, Department of City Planning, Bay Conservation and Development Commission, or other relevant public or private entities if any aspect of a permit request requires consent from any such entity. The Commission reserves the right to consult with the Recreation and Park Commission to determine if another park facility in the City is more appropriate to accommodate the proposed event, and, if the alternate park facility is available, to deny a permit.

5. Recycling and parking control. Following any Large Event, the permittee must recycle or cause to be recycled any newspaper, glass or aluminum items generated by the event. The term "recycle" means packaging newspaper, glass and aluminum items separately and making arrangements to have these items delivered to neighborhood recycling centers in the City. In consultation with the Commission, permittees may make other arrangements for the disposal of recyclable items. For Large Events, the Commission may require the applicant to pay an additional fee for the cost of providing parking control for the event.

6. Sales of food or alcohol. The Commission may issue one-day permits for the sale of food products with the approval of the Health Department. All food permits must be filed thirty (30) business days in advance of the event. The Commission may, in its sole discretion, authorize the serving or selling of beer and/or wine under one-day permits so long as the applicant has obtained the necessary approval from the Alcoholic Beverages Commission ("ABC").

7. Health Department and ABC permits. Permittees must secure a proper Health Department Notice to Operate and, if alcohol is involved, a permit from ABC. The ABC permit and the Health Department Notice to Operate must be visibly displayed on each booth or location.

8. Planning meeting. Prior to issuing a permit, the Commission may arrange or require the applicant to arrange a meeting of all public and private entities involved in: (i) any Large Event or (ii) an event which would require special services or permission from the affected public or private entities which cannot be arranged through written or telephone consultation with those entities.

9. Mylar balloons. The sale and use of mylar balloons in Parks are prohibited.

10. Other balloons. All other balloons are allowed, but the permittee must remove them following the event unless the Commission consents to leaving them there. The release of balloons in Parks is prohibited.

11. Fee waiver for nonprofit permittees. The Commission may enter into an agreement with a nonprofit organization seeking to use Parks to waive the applicable use fees in exchange for receiving services that may be provided to the Commission or the City, provided that the value of the fees waived does not exceed the value of the services rendered.

12. Discrimination prohibited. The Commission will process all permits without discrimination with regard to the race, color, religion, ancestry, national origin, age, sex, political affiliation, sexual orientation, or disability of applicants.

13. Structures. Any permittee requesting to erect a stage, booth, platform, tent or other structure must submit an anchoring plan for such structure(s) before the Commission will allow the permittee to bring its equipment into a Park. The anchoring plan must detail the method to be used to secure such structure(s) in place in a safe and stable condition. No Park benches, light standards, trash receptacles, buildings, trees, shrubs or the like may be used for the purpose of securing any structure(s) unless prior written approval is received from the Commission. The Commission may review the anchoring plan prior to any installation of the structures and reserves the right to require changes.

14. Misrepresentation by permittees

(a) Material misrepresentations of fact in an application, in circumstances where the applicant reasonably knew or should have known that assertions in the application were not true, may be considered by the Commission in determining whether the permit application should be denied or revoked because of the applicant's inability to be responsible for the use of a Park in compliance with the Park Code, the Regulations, any other applicable law and any permit conditions imposed by the Commission.

(b) If the Commission has reason to believe that advertising or publicity for an event for which an application is on file or permit has been issued describes or refers to the event in a manner which indicates that the event is different from that described in the application, the Commission may request the applicant or permittee to submit such advertising or publicity material. The Commission will examine the same for the purpose of determining whether there is reason to conclude that the application inaccurately or incompletely describes the planned event. If it so determines, in cases where the permit has not been granted, the Commission will immediately notify applicant of the discrepancy and schedule a meeting to determine whether the applicant must modify its application. In cases where the application has been granted, the Commission may revise the scope of the permit or revoke it in light of the changed circumstances.

D. FEES AND SECURITY DEPOSITS

1. Permit fees. The Fees charged for an event shall reflect the Commission's

costs in preparing for an event, wear and tear on the Park, the income, if any, a permittee intends to earn from the event, the permittee's ability to pay a rental fee, and other factors outlined in the Park Code and these Regulations. The Commission will collect the entire fee from the permittee at the time a permit is issued.

2. Security deposits. The Commission may require security deposits pursuant to a schedule set by the Commission and revised annually to insure that Parks are restored and cleaned at the conclusion of permitted activities.

3. Additional deposits. For Large Events, the Commission may require an applicant to post a deposit in an amount higher than shown on the security deposit schedule, so long as the amount of the deposit is reasonably related to the anticipated costs of restoring or cleaning the park property used in connection with the event.

4. Form of deposit. The security deposit will be in the form of a cashiers check payable to the Commission or other entity designated by the Commission, and must be received no later than the time the permit is issued. The security deposit will be returned after the event as soon as it is determined that every area of a Park used in connection with the event has been cleaned and restored to the same or equivalent condition that existed immediately prior to the permitted event. In no case will the security deposit be returned unless the Park is returned to its prior condition or the permittee has paid the cost of cleaning and restoring the area used in connection with the event.

5. Waiver of security deposit. The Commission may waive or decrease the security deposit normally required if an applicant has a history of using Commission property and has consistently left the property used in good condition and no circumstances exist which indicate that the applicant might fail to restore the Park after the proposed event.

6. Exercise of Constitutional rights. When an applicant for a permit to perform an activity which is protected by the First Amendment to the U.S. or California Constitution and for which a security deposit must be posted produces evidence that providing a security deposit would be impossible or so financially burdensome that it would preclude the applicant from using the Park for the proposed activity, the Commission may accept in its place appropriate written assurances that all necessary measures will be undertaken by applicant to protect the Park against damage, but only if the Commission determines that the measures proposed by the applicant will be performed and will adequately protect the Park.

7. Applicants who have damaged parks. If an applicant has used a Park in the past and has caused damage or injury to property or failed to restore or clean the Park at the conclusion of its activity, the Commission may: (i) deny the permit or (ii) require the applicant to post a security deposit in an amount greater than normally required, so long as the increased amount is

reasonably related to the anticipated costs of restoring or cleaning the Park.

8. Costs of repairs and liquidated damages. In addition to assuming the payment of the direct costs associated with restoring and cleaning a Park following an event, a permittee must acknowledge and agree in writing that some violations of the Park Code or Regulations may result in damages which are extremely difficult to estimate. Such damages include, but are not limited to: the public's lost use of a Park or lost enjoyment of the flora, fauna or vegetation while the Park is being cleaned or restored; increased administrative costs resulting from patrolling the Park; general impairment of the Park environment as a public recreational source; or the loss of future concession revenues from individuals who are discouraged from using the Park as a result of the applicant's violations. Accordingly, in the event a permittee fails to substantially comply with the Park Code, Regulations, or any other permit conditions, permittee shall be liable for liquidated damages in the amount of $250 or twenty-five percent (25%) of the total security deposit, whichever is greater. This liability is in addition to any direct costs associated with cleaning and restoring the Park, for which the permittee is also liable. Any costs for damages assessed by the Commission which cannot be recovered from the security deposit are payable to the Commission upon demand. Permittee has the right to appeal the assessment of liquidated damages to the Commission's Executive Director.

9. Remedies for violations of applicable law, Regulations, and permit conditions. If the permittee fails to comply with the Park Code, the Regulations or any other permit conditions, and the Commission reasonably believes there are risks of serious damage to property or a substantial interference with the use and enjoyment of the Park by other persons, the Commission may issue a warning that any further violations may result in a revision of the conditions of the permit or an order to leave the Park. In addition, the Commission may take any actions reasonably required to protect the Park or the health and safety of the public, and the permittee must reimburse the Commission for its costs incurred in doing so. Following the event, the Commission may issue an order denying the group or organization a permit to use a Park for a period not to exceed one year. However, groups or organizations which only sponsor an annual event will be denied a permit through the following calendar year. In determining the length of time a group or organization will be excluded from the Parks, the Commission will consider only the nature, extent and duration of the violation(s).

E. PERMIT REQUIREMENTS

1. Form of Permit. All permittee's must enter into a written permit with the Commission for use of any Park, in a form approved by the City Attorney, including applicable insurance requirements and indemnifications. A copy of the approved permit form is attached hereto as Exhibit 1.

2. Waiver. The insurance coverage requirements set forth in the permit form may be waived for applicants who propose to engage in an activity protected by the First Amendment to

the U.S. or California Constitution when the applicant produces evidence that complying with those provisions is impossible or so financially burdensome that it would preclude the applicant from using a Park for the proposed activity. However, in no event will the requirement for food products liability coverage be waived when the permittee is selling or distributing food to the general public.

F. REQUIREMENTS FOR ADDITIONAL AUTHORIZATION FOR SPECIFIC ACTIVITIES

1. Sign posting. No signs may be posted on any Park property without written approval of the Commission.

2. Athletic instruction for compensation. Applications pursuant to Park Code Section 2.6 for permits to provide athletic instruction for compensation must be made in writing to the Commission thirty (30) business days before the instruction occurs.

3. Peddling goods, wares or merchandise. Applications pursuant to Park Code Section 2.8 for permits to peddle or vend goods, wares or merchandise must be made to the Commission at least ten (10) business days before such activities take place.

III. LIMITS ON USES OF PARK FACILITIES

A. GENERAL RULES

1. Uses must be consistent with purpose of facilities. Any portions of Parks serving a specific function may not be the site of any event which, in the reasonable judgment of the Commission, would conflict with what is intended as that portion's primary functions.

2. Multiple day permits. Multiple day events may be considered for permits based on the nature of the event, the proposed location, the anticipated attendance and any other facts and circumstances that relate to any potential adverse impact on the Parks, the neighborhood or the public.

B. SPECIFIC RESTRICTED ACTIVITIES

1. Camping. No permits for camping or housing accommodations may be granted.

2. Sleeping overnight. No permits for sleeping overnight may be granted.

3. Distribution of free food. Pursuant to Park Code Section 6.3(J), a permit is required to provide free food to persons in Parks. The Commission has established these provisions to govern such permits:

(a) Except as provided in Section III. 7. (b), without a permit from the

Commission as set forth below, no person may distribute, provide or sell food to the general public in a Park.

(i) The Commission may approve a permit application for the distribution, provision or sale of food to the general public when the proposed activity takes place in conjunction with an indoor facility adjacent to a Park or is in connection with a permitted recreational activity in a Park.

(ii) Applications for the distribution, provision or sale of food not subject to subsection (a) above may be approved only with the consent of the Executive Director of the Commission.

(b) A permit to provide food to persons in a Park is not required when a person participating in a picnic or social gathering of 25 or fewer persons provides food to others who are also participating in that picnic or social gathering. This exception shall not be construed to allow any person to use a Park, without a permit, as a mobile or stationary kitchen, eating establishment, restaurant or similar purpose to provide or sell food to the general public.

IV. APPEAL PROCEDURE

1. Written request for appeal. Any applicant or permittee may appeal the denial of a permit application, revocation of a permit or subsequent assessment of liquidated damages, by mailing or delivering a written request for an informal hearing with the Executive Director of the Commission. The request must state succinctly the grounds upon which it is asserted that the determination of the Commission should be modified or reversed.

2. Informal hearing. The Executive Director will schedule an informal hearing with the applicant or permittee to be held within fifteen (15) calendar days of Executive Director's receipt of the written request.

3. Scope of review. The Executive Director will afford the applicant or permittee an opportunity for an informal hearing and may reverse, affirm or modify in any regard the initial determination. When the Executive Director affirms the denial of a permit application or revocation of a permit, such a decision must be based on one or more of the reasons listed in Section 7.07 of the Park Code.

4. Written reasons for decision. The Executive Director will give the applicant or permittee written notice of his or her decision within three (3) business days after the hearing. Such notice will be mailed to the applicant or permittee at the address contained in the request for a hearing or, if none, in the permit application. The Commission will keep a copy of the notice on file to be made available to the applicant upon request. When the Executive Director issues a ruling

adverse to the applicant or permittee, the Executive Director must include within the written notice to the applicant or permittee the reasons for the decision and specific findings of fact on which the decision is based.

V. REVIEW AND MODIFICATION OF REGULATIONS

The City Attorney and appropriate Commission program staff will conduct an annual review of these Regulations and ascertain whether they maintain the proper balance between the recreational, constitutional and property interests of the public heretofore mentioned, as well as the Commission's substantial interests in preserving the Parks and limiting excessive noise, congestion and police problems. In addition to the annual review, the City Attorney may make recommendations for changes in these Regulations from time to time as he or she deems necessary.

pkregs10

EXHIBIT 1

PERMIT FORM

SAN FRANCISCO PORT COMMISSION

FERRY BUILDING

SAN FRANCISCO, CA 94111

LICENSE TO USE PROPERTY

Licensee:

Licensee address: _____

Attn: _____

Activity:

Contact:

Activity Date(s): _____ **[If month-to month, add the following:** This License may be terminated by either party upon thirty (30) days' prior written notice.] **[If applicable, add the following: Permitted acknowledges that Port may require the use of the License Area during the term hereof for special events, parking or other activities. In such event, Port reserves the right to revoke this License upon 24 hours notice. In the event Port exercises its right to revoke hereunder, Port shall make reasonable efforts to relocate Licensee to a substantially similar location.]**

Location: _____ ("License Area")

License Fees **(Section 3)**: _____

Security/Cleaning Deposit (**Section 5**): amount: _____

Port Utilities and Services (**Section 9.a, 9.b**):

Port Maintenance Responsibilities (**Section 9.c**):

Cure Period: ___ days (**Section 13(a)(2)**)

Mineral Reservation (**Section 21**): California Grid System, Zone 3, Beginning at a point where X equals_____ and Y equals_____ extending 2,500 feet south, thence 15,00 feet east, thence 2,500 feet north and thence 1,500 feet west, ending at said point of beginning.

Address for notices to Licensee (**Section 12**):

_____

_____

_____

Attn: _____

Address for notices to Port:

Port of San Francisco

Room 3100 Ferry Building

San Francisco, CA 94111

Attn: Director, Tenant and Maritime Services

Name/Address of Agent for Service for Process, if Licensee is a Corporation:_____

Driver's License No. If Licensee is an individual:_____

This License is entered as of this ____ day of ____, 19___, by and between the City and County of San Francisco, a municipal corporation ("City"), operating by and through the San Francisco Port Commission ("Port"), and Licensee, who agree as follows:

1. Basic License Information: The Basic License Information that appears on the preceding pages of this License is hereby incorporated by reference into this License and shall become part of the terms and conditions hereof.

2. Grant of License. The SAN FRANCISCO PORT COMMISSION, in consideration of the stated conditions and agreements, hereby grants permission to Licensee to carry on the above-stated activity in the time, place and manner set forth herein. The parties acknowledge that the relationship created hereby is that of a license granting Licensee a privilege to perform the activities permitted hereunder upon Port property. The parties further acknowledge that this License is revocable by Port pursuant to the terms hereof, and does not convey to Licensee an exclusive right to possession of the License Area.

3. Fees. Licensee shall pay the License Fees set forth in the Basic License Information on or before the first day of the Activity Date set forth in the Basic License Information, and thereafter if applicable, upon the first day of each month during the term of this License.

4. Late Charges. Licensee acknowledges that late payment by Licensee to Port of License fees due hereunder will cause Port increased costs not contemplated by this License, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, a fee equivalent to one and one-half percent (1-1/2%) of all License fees, or any portion thereof, which is due and unpaid for more than thirty (30) days will be paid by Licensee for each month that such License Fees, or any portion thereof, remains due and unpaid, plus reasonable attorneys' fees incurred by Port by reason of Licensee's failure to pay License Fees when due under this License. Late Charges shall be computed from the date on which such License Fees first became due. The parties agree that such Late Charges represent a fair and reasonable estimate of the cost which Port will incur by reason of any late payment by Licensee.

5. Security Deposit. Licensee shall pay to Port on or before the first Activity Date hereof, in addition to the advance payment of the License Fees, the security deposit, in cash, in the sum specified in the Basic License Information, as security for the faithful

performance by Licensee of all terms, covenants and conditions of this License. Licensee agrees that Port may (but shall not be required to) apply the security deposit in whole or in part to (a) pay any sum due to Port under this License; (b) compensate Port for any damage to the License Area caused by Licensee; or (c) cure any default by Licensee. If Port uses any portion of the security deposit to cure any default by Licensee hereunder, Licensee shall immediately replenish the security deposit to the original amount. Port's obligation with respect to the security deposit is solely that of debtor and not trustee. Licensee shall not be entitled to any interest on such deposit. If Licensee is not in default at the termination of this License, Port shall return the unused balance of the security deposit to Licensee after Licensee vacates the License Area. The amount of the security deposit shall in no way limit Licensee's obligations under this License, and nothing contained in this section shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this License or provided by law or equity.

6. **Activity.** If the Basic License Information limits the times and location of the activities permitted hereunder, then Licensee shall not conduct the activity at times and locations other than at the times and locations hereinabove specified unless express permission is granted.

7. **Use.** Licensee shall not use Port property in any manner that will constitute waste, nuisance or unreasonable annoyance to Port, its tenants or the owners or occupants of adjacent properties. Licensee's operations hereunder shall not interfere with Port's use of its property. Operations hereunder must not obstruct traffic. Persons subject to this License must comply with the directions of the San Francisco Police Department and Fire Department in connection therewith.

8. **Compliance with Laws and Regulations**. Licensee, at Licensee's sole cost and expense, promptly shall comply with all laws, statutes, ordinances, resolutions, regulations, judicial decisions, proclamations, orders, decrees or policies of any municipal, county, state or federal government or the departments, courts, commissions, boards and officers thereof, or other governmental or regulatory authority with jurisdiction over the Licensee and the License Area or any portion thereof, including without limitation, the Port (collectively, "Laws") relating to or affecting the condition, use or occupancy of the License Area in effect either at the time of execution of this License or which may hereafter be in effect at any time during the term hereof, whether or not the same are now contemplated by the parties.

9. Utilities, Services and Repairs.

a. Utilities. Licensee shall make arrangements and shall pay all charges for all utilities to be furnished on, in or to the Premise or to be used by Licensee, including, without limitation, gas, electrical, water, sewer and telecommunication services. Licensee shall pay all charges for said utilities, including charges for the connection and installation of the utilities.

b. Services. Licensee shall make arrangements and shall pay all charges for all services to be furnished on, in or to the License Area or to be used by Licensee, including, without limitation, garbage and trash collection, janitorial service and extermination service.

c. Maintenance and Repairs. Except as otherwise provided in the Basic License Information, Licensee shall at all times during the term of this License, and at its sole cost and expense, maintain and repair in good and working order, condition and repair the License Area and all improvements and alterations thereon. Port shall not be obligated to make any repairs, replacement or renewals of any kind, nature or description whatsoever to the License Area nor to any improvements or alterations now or hereafter located thereon. In the event that Licensee, its Agents or Invitees cause any damage (excepting ordinary wear and tear) to the License Area, Port may repair the same at Licensee's expense and Licensee shall immediately reimburse Port therefor.

10. Taxes and Assessments. Licensee agrees to pay to the proper authority any and all taxes, assessments and similar charges on the License Area in effect at the time this License is entered into, or which become effective thereafter, including all taxes levied or assessed upon the possession, use, or occupancy, as distinguished from the ownership to the License Area. Licensee, on behalf of itself and any permitted successors and assigns, recognizes and understands that this License may create a possessory interest subject to property taxation and that Licensee, and any permitted successor or assign may be subject to the payment of such taxes. Licensee, on behalf of itself and any permitted successors and assigns, further recognizes and understands that any assignment permitted hereunder and any exercise of any option to renew or extend this License may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder.

11. Insurance.

a. Licensee shall maintain throughout the term of this License, at Licensee's expense, insurance as follows:

(1) Workers' Compensation insurance, including Employers' liability with limits not less than $1,000,000 each accident;

(2) Comprehensive or Commercial General Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Advertising Liability, Liquor Liability, Independent Contractors, Explosion, Collapse and Underground (XCU), Broadform Property Damage, Sudden and Accidental Pollution, Products Liability and Completed Operations;

(3) Comprehensive or Business Automobile Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired automobiles, as applicable;

b. Should any of the required insurance be provided under a claims-made form, Licensee shall maintain such coverage continuously throughout the term of this License, and, without lapse, for one year beyond the License expiration, to the effect that, should occurrences during the License term give rise to claims made after expiration of the License, such claims shall be covered by such claims-made policies.

c. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be not less than double the occurrence limits specified above.

d. Liability policies shall be endorsed to name as additional insureds the City and County of San Francisco, the San Francisco Port Commission, and their officers, directors, employees and Agents.

e. All policies shall be endorsed to provide the following:

(1) Thirty (30) days prior written notice of cancellation, non-renewal or reduction in coverage or limits to:

Port of San Francisco

Suite 3100, Ferry Building

San Francisco, CA 94111

(2) That such insurance is primary to any other insurance available to the additional insureds with respect to claims covered under the policy and that insurance applies separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

f. Before commencement of activities under this License, certificates of insurance, in form and with insurers acceptable to City, shall be furnished, with complete copies of policies to City promptly upon request.

g. **Waiver of Subrogation Rights**. The parties release each other, and their respective authorized representatives, from any claims for damage to the License Area or to the fixtures, personal property, improvements or alterations of either Port or Licensee in or on the License Area which are caused by or result from risks insured against under any property insurance policies carried by the parties and in force at the time of any such damage, to the extent such claims for damage are paid by such policies. Each party shall cause each property insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against the other party in connection with any damage covered

by any policy.

12. Notices. All notices, demands, consents or approvals which are or may be required to be given by either party to the other under this License shall be in writing and shall be deemed to have been fully given when delivered in person to such representatives of Port and Licensee as shall from time to time be designated by the parties for the receipt of notices, or when deposited in the United States mail, postage prepaid, and addressed, to Port or Licensee at the addresses designated in the Basic License Information, or such other address with respect to either party may from time to time designate by notice to the other given pursuant to the provisions of this Paragraph.

13. Default by Licensee.

a. Event of Default. The occurrence of any one or more of the following events shall constitute a default by Licensee:

(1) Failure by Licensee to pay when due any License fees and/or all other charges due hereunder; or

(2) Failure to perform any other provisions of this License, if the failure to perform is not cured within the Cure Period set forth in the Basic License Information after notice has been given by Port to Licensee. If the default cannot reasonably be cured within the Cure Period, Licensee shall not be in default of this License if Licensee commences to cure the default within the Cure Period, and diligently and in good faith continues to cure the default.

b. Port's Remedies. Upon default by Licensee, Port shall, without further notice or demand of any kind to Licensee or to any other person, and in addition to any other remedy Port may have at law or in equity, have the ability to terminate this License and Licensee's right to use the License Area.

14. Indemnity and Exculpation.

a. Indemnity. Licensee shall indemnify and hold Port, City, and their

Agents, officers, directors, contractors and employees (collectively, "Agents") harmless from, and, if requested, shall defend them against any and all claims, direct or vicarious liability, damage, injury or loss arising directly or indirectly out of: (a) any injury to or death of any person, including employees of Licensee, or damage to or destruction of any property occurring in, on or about the License Area, or any part thereof, from any cause whatsoever, (b) any default by Licensee in the observance or performance of any of the terms, covenants or conditions of this License, (c) the use, occupancy or condition of the License Area or the activities therein by Licensee, its Agents, or clients, customers, invitees, guests, members, licensees, and assignees (collectively, "Invitees") activities therein or (d) any release or discharge, or threatened release or discharge, of any substance, waste or material which now or in the future is determined by any state, federal, or local governmental authority to be capable of posing a present or potential risk of injury to health, safety, the environment or property (collectively, "Hazardous Material") caused or allowed by Licensee in, under, on or about the License Area, or into the environment. This indemnity shall be enforceable regardless of the negligence of Port or City, and regardless of whether liability without fault is imposed or sought to be imposed on Port or City. This indemnity shall be enforceable except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on, or validly retroactive to, the date of this License. This indemnity includes all such loss, damage, injury, liability or claims as described above, loss predicated in whole or in part, upon active or passive negligence of Port, City or their Agents. This indemnity shall exclude claims, liability, damage or loss resulting solely and exclusively from the wilful misconduct of Port or City which is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on, Licensee, its Agents or Invitees.

In addition to Licensee's obligation to indemnify Port and City, Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend Port and City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent. Licensee's obligation to defend shall arise at the time such claim is tendered to Licensee by Port and/or City and shall continue at all times thereafter.

The foregoing indemnity obligation of Licensee shall include without limitation, indemnification from all loss and liability, including attorney's fees, court costs and all other litigation expenses. This indemnification by Licensee shall begin from the first notice that any claim or demand is or may be made. The provisions of this section shall survive the termination of this License with respect to any damage, destruction, injury or death occurring prior to such termination.

b. Exculpation. Licensee, as a material part of the consideration to be rendered to Port, hereby waives any and all claims against Port, City and their Agents, and agrees to hold Port, City and their Agents harmless from any claims for damages to goods, wares, goodwill, merchandise, equipment, business opportunities and persons in, upon or about said License Area for any cause arising at any time, including without limitation all claims arising from the joint or concurrent negligence of Port or City or their Agents, but excluding any intentionally harmful acts committed solely by Port or City.

15. Hazardous Materials.

a. Requirements for Handling. Neither Licensee nor its Agents or Invitees, shall use, generate, process, produce, package, treat, store, emit, discharge or dispose (collectively, "Handle") in, on or about the License Area any Hazardous Materials without the prior written consent of Port, which consent shall not be unreasonably withheld so long as Licensee demonstrates to Port's reasonable satisfaction that such Hazardous Material is necessary to Licensee's business, will be Handled in a manner which strictly complies with all Laws and will not materially increase the risk of fire or other casualty to the License Area. Notwithstanding the foregoing, Licensee may Handle on the License Area janitorial or office supplies or materials in such limited amounts as are customarily used for general office and janitorial purposes so long as such Handling is at all times in full compliance with all Laws.

b. Licensee Responsibility. Subject to the restrictions set forth in Section 15.b above, Licensee shall Handle all Hazardous Materials discovered on the License Area during the Term of this License or introduced on the License Area by Licensee, its Agents or Invitees, in compliance with all Laws. Licensee shall not be responsible for the safe Handling of Hazardous Materials introduced on the License Area during the term of this License by City, Port or their Agents. Licensee shall protect its employees and the general public in accordance with all Laws. Port may from time to time request, and Licensee shall be obligated to provide, information reasonably adequate for Port to determine that any and all Hazardous Materials are being Handled in a manner which complies with all Laws. Port shall have the right to inspect the License Area for Hazardous Materials at reasonable times, pursuant to its rights of entry provided for hereunder.

c. Requirement to Remove. Prior to termination of this License, Licensee, at its sole cost and expense, shall remove any and all Hazardous Materials introduced in, on, under or about the License Area by Licensee, its Agents or Invitees. Further, Licensee, at its sole cost and expense, shall remove any Hazardous Material

discovered on the License Area during the term of this License which is required to be removed by any governmental agency, including Port; provided however, that Licensee shall not be obligated to remove any Hazardous Material introduced onto the License Area during the term of this License by the City, Port or their Agents.

16. Port's Entry on License Area.

a. Entry for Inspection. Port and its authorized Agents shall have the right to enter the License Area without notice at any time during normal business hours of generally recognized business days, provided that Licensee or Licensee's Agents are present on the License Area, for the purpose of inspecting the License Area to determine whether the License Area are in good condition and whether Licensee is complying with its obligations under this License, and to perform any necessary maintenance, repairs or restoration to the License Area, or to perform any services which Port has the right or obligation to perform.

b. Emergency Entry. Port may enter the License Area at any time, without notice, in the event of an emergency. Port shall have the right to use any and all means which Port may deem proper in such an emergency in order to obtain entry to the License Area. Entry to the License Area by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of the License Area, or an eviction of Licensee from the License Area or any portion of them.

c. No Liability. Port shall not be liable in any manner, and Licensee hereby waives any claim for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, including without limitation any abatement or reduction in License fees due hereunder, arising out of Port's entry onto the License Area as provided in this Section 16, except damage resulting solely from the active negligence or willful misconduct of Port or its authorized representatives.

d. Non-Disturbance. Port shall use its best efforts to conduct its activities on the License Area as allowed in this section, in a manner which, to the extent reasonably practicable, will cause the least possible inconvenience, annoyance or disturbance to Licensee.

17. Improvements and Alterations.

a. Licensee shall not make, nor suffer to be made, alterations or

improvements to the License Area (including the installation of any trade fixtures affixed to the License Area or whose removal will cause injury to the License Area) without the prior written consent of Port. Without limiting the foregoing, Licensee shall not make, nor cause or suffer to be made, any Alterations or Improvements to the License Area until Licensee shall have procured and paid for all Regulatory Approvals required to be obtained for such alterations and improvements, including, but not limited to, any building or similar permits required by Port or its Chief Harbor Engineer in the exercise of its jurisdiction with respect to the License Area.

b. Improvements Part of Realty. All alterations or improvements to the License Area made by or on behalf of Licensee which may not be removed without substantial injury to the License Area shall become part of the realty, shall be owned by Port and shall, at the end of the term hereof, remain on the License Area without compensation to Licensee, unless Port first waives its right to the Alterations or Improvements in writing. Notwithstanding the foregoing, Port at its option, can require Licensee to any alterations and improvements at Licensee's sole expense regardless of whether title has or has not vested in Port, and regardless of whether consent was, or was not given. Licensee shall repair any damage occasioned by such removal at Licensee's sole cost and expense.

18. Suitability; Acceptance. Licensee acknowledges that Port has made no representations or warranties concerning the License Area, including without limitation, the seismological condition thereof. By taking possession of the License Area, Licensee shall be deemed to have inspected the License Area and accepted the License Area in an "As-Is" condition and as being suitable for the conduct of Licensee's activity thereon.

19. Surrender. Upon termination of this License, Licensee shall surrender to Port the License Area and all improvements thereon in good condition (except for ordinary wear and tear) except for Improvements and alterations which Licensee has the right to remove or is obligated to remove under the provisions of this License. On or before the termination date hereof, Licensee shall remove all of its personal property and shall perform all restoration made necessary by the removal of any improvements, alterations or Licensee's personal property.

Port may elect to retain or dispose of any improvements or Licensee's personal property which Licensee does not remove from the License Area as allowed or required by this License by giving at least ten (10) days' prior written notice of such election to Licensee. Licensee waives all claims against Port for any damage to Licensee resulting from Port's

retention or disposition of any improvements, alterations or Licensee's personal property. Licensee shall be liable to Port for all costs incurred by Port for storing, removing or disposing of any improvements, alterations or Licensee's personal property.

If Licensee fails to surrender the License Area as required by this section, Licensee shall hold Port harmless from all damages resulting from Licensee's failure to surrender the License Area, including, but not limited to, claims made by a succeeding Licensee resulting from Licensee's failure to surrender the License Area

20. Attorney's Fees..

a. **Litigation Expenses**. If either party hereto brings an action or proceeding (including any cross-complaint or counterclaim) against the other party by reason of a default, or otherwise arising out of this License the prevailing party in such action or proceeding shall be entitled to recover from the other party its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "Prevailing party" within the meaning of this section shall include, without limitation, a party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other party of its claim or defense.

b. **Appeals**. Attorneys' fees under this section shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal.

c. **City Attorney**. For purposes of this License, reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. If Port or Licensee commences an action against the other party arising out of or in connection with this License, the prevailing party shall be entitled to have and recover from the losing party reasonable attorney's fees and costs of suit.

21. **Mineral Reservation**. The State of California, pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral

deposits, including oil and gas deposits, on or underlying the License Area. In accordance with the provisions of said Statutes, Port and Licensee shall and hereby do grant to the State of California the right to explore, drill for and extract said subsurface minerals, including oil and gas deposits, from the Mineral Reservation area located by the California Grid System as more particularly described in the Basic License Information.

22. Time is of the Essence. Time is of the essence as to each and every provision of this License.

23. City Requirements.

a. Non-Discrimination. Licensee shall not, in the operation and use of the Premises, discriminate against any person or group of persons solely because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability or acquired immune deficiency syndrome (AIDS) or AIDS related condition (ARC). The provisions of Chapters 12B and 12C of the San Francisco Administrative Code, relating to nondiscrimination by parties contracting with the City and County of San Francisco, are incorporated herein by this reference and made a part hereof as though fully set forth herein. Licensee agrees to comply with all provisions of such Chapters 12B and 12C that apply to licensees of real property of the City and County of San Francisco.

b. MacBride Principles-Northern Ireland. City urges companies doing business in Northern Ireland to move towards resolving employment inequities and encourages such companies to abide by the MacBride Principles. City urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

c. Tropical Hardwood Ban. City urges Licensee not to import, purchase, obtain, or use for any purpose, any tropical hardwood or tropical hardwood product.

d. Tobacco Products Advertising Ban. Licensee acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the City, including the property which is the subject to this License. This prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement

sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

24. Miscellaneous Provisions.

a. California Law. This License shall be construed and interpreted in accordance with the Laws of the State of California and City's Charter.

b. Entire Agreement. This License contains all of the representations and the entire agreement between the parties with respect to the subject matter of this agreement. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to such subject matter are superseded in total by this License. No prior drafts of this License or changes from those drafts to the executed version of this License shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this License.

c. Amendments. No amendment of this License or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

d. Severability. Except as is otherwise specifically provided for in this License, invalidation of any provision of this License, or of its application to any person, by judgment or court order, shall not affect any other provision of this License or its application to any other person or circumstance, and the remaining portions of this License shall continue in full force and effect, unless enforcement of this License as invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purposes of this License.

e. No Party Drafter; Captions. The provisions of this License shall be construed as a whole according to their common meaning and not strictly for or against any party in order to achieve the objectives and purposes of the parties. Any caption preceding the text of any section, paragraph or subsection or in the table of contents is included only for convenience of reference and shall be disregarded in the construction and interpretation of this License.

f. Singular, Plural, Gender. Whenever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, and vice versa.

g. Successors. The terms, covenants, agreements and conditions set forth in this License shall bind and inure to the benefit of Port and Licensee and, except as otherwise provided herein, their personal representatives and successors and assigns.

h. Counterparts. For convenience, the signatures of the parties to this License may be executed and acknowledged on separate pages which, when attached to this License, shall constitute this as one complete License. This License may be executed in any number of counterparts each of which shall be deemed to be an original and all of which shall constitute one and the same License.

i. Waiver. No failure by Port to insist upon the strict performance of any obligation of Licensee under this License or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of full or partial License fees during the continuance of any such breach shall constitute a waiver of such breach or of Port's rights to demand strict compliance with such term, covenant or condition. Port's consent to or approval of any act by Licensee requiring Port's consent or approval shall not be deemed to waive or render unnecessary Port's consent to or approval of any subsequent act by Licensee. Any waiver by Port of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this License.

j. Authority. Each of the persons signing this License on behalf of the Licensee does hereby covenant and warrant that Licensee has full right and authority to enter into this License, and that each and all of the persons signing on behalf of the Licensee are authorized to do so.

IN WITNESS WHEREOF, PORT and Licensee execute this License at San Francisco, California, as of the date set forth above.

"Licensee"

FRANCISCO

"Port"

CITY AND COUNTY OF SAN

a municipal corporation,

operating through the

SAN FRANCISCO PORT COMMISSION

By_____

_____

Print Name

Title: _____

By: _____

_____

Director, Tenant and Maritime Services

PORT OF SAN FRANCISCO

Ferry Building
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Cable SFPORTCOMM
Writer

MEMORANDUM

April 23, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James R. Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Status report on the Ferry Building Renovation Project

DIRECTOR'S RECOMMENDATION: Informational presentation only; no action required.

The purpose of this item is to brief the Commission on the current status of the Ferry Building Renovation Project.

Background

Throughout the extensive community planning process culminating in the Port's Waterfront Plan, the public has called for the renovation of the Ferry Building as the historic symbol of the waterfront and as a major civic landmark. Accordingly, the Port has proceeded diligently to set our parameters of a renovation that would address the key issues of community acceptance, regulatory approval and financial feasibility.

In 1994, an initial conceptual design and feasibility study was prepared for the Ferry Building by a team of consultants led by Polshek and Partners, ROMA Design Group and Keyser Martson Associates. The results of that study were presented to the Port Commission at the September 27, 1994 Commission meeting. The study identified four reuse concepts for the building that generally fit within regulatory, community acceptance and physical constraints of a landmark building.

PRINT COVERS CALENDAR ITEM NO. 7A

The preferred alternative calls for a mix of uses, focusing on public oriented food-related uses on the ground floor, and a mix of conference, office and entertainment uses on the second and third floors.

In all the alternatives, the following public objectives are achieved:

- The historic exterior facades of the building are restored
- The ground floor is opened up for active, publicly oriented uses
- A grand, central foyer is created to restore the building as a gateway between the Bay and the City
- The building is renovated to accepted seismic safety standards

The feasibility study identified a financial gap of $30 million between warranted private investment and the total renovation costs of the preferred alternative.

To enhance our ability to proceed with public and private funding efforts, a ballot measure was initiated in November, 1994 to exempt the Ferry Building from the Proposition H moratorium on non-maritime waterfront development. The ballot measure was approved with 65% of the vote. Unfortunately, as a result of the November 1994 national election, Congressional budget priorities shifted and the likelihood of the Port securing significant federal funding for the project greatly diminished.

While the renovation of most other major transportation centers such as Union Station in Washington, D.C. and 30th Street Station in Philadelphia have relied on large federal subsidies, the Port undertook a refined feasibility study to determine the viability of renovating the Ferry without significant federal funding. A number of additional technical studies were conducted including a foundation and substructure analysis, asbestos and lead survey, refined design studies and cost estimates and a tenant relocation study.

These studies resulted in a number of refinements which increased the building's efficiency, confirmed the appropriateness of the approach to seismic and foundation repairs and reduced the cost of relocating tenants. While there is still a financial gap of up to $20 million, several mechanisms have been identified to close the gap. Some of these mechanisms have policy and financial implications for the Port that require further study.

The Port's consultants also conducted interviews with several national and local development firms to obtain "real world" reactions to the viability of the project. In general, the firms contacted were impressed with the level of public commitment to the project and the area. They also made several suggestions regarding the structure of the development opportunity and the developer selection process.

The Port also held a one-day workshop with leading Bay Area retail experts in order to further test the conceptual design and layout of the project. The group made key recommendations on retail flexibility, the importance of the public areas to the project and the need to reduce physical obstructions on the ground floor.

In the coming year, the staff intends to take a number of steps to further the Port's ability to proceed with the project. They include:

(1) Securing the site improvements to the Ferry Building environs by coordinating the design and construction of the Mid-Embarcadero Roadway and Downtown Ferry Terminal Projects with the plans for the Ferry Building.

(2) Securing a parking garage for the future uses in the Ferry Building and surrounding area. The parking garage, located at Washington and the Embarcadero, would be constructed as part of the Mid-Embarcadero Roadway Project.

(3) Developing agreements with the major tenants in the building.

(4) Completing environmental review of the project.

(5) Monitoring market conditions for the use program under consideration for the building.

(6) Further developing the funding and implementation approach for the project.

These steps will position the Port to proceed with the project with the assurance that required parking and attractive site improvements for the building will be provided. With these critical elements in place, the Port will be better positioned to ensure that the public objectives of the project will be met, and will allow the Port to determine the most appropriate time to initiate a solicitation process for private developer participation.

Prepared by: Sharon Lee Polledri,
Director of Planning and Development

SLP/fj/H: Agd2.5-16

PORT OF SAN FRANCISCO

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MEMORANDUM

April 23, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie Lee, Vice President
Hon. Frank J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: 1996 San Francisco Bay Area Seaport Plan

DIRECTOR'S RECOMMENDATION: Informational briefing; no action required.

Purpose.
The Seaport Plan is incorporated as part of the Bay Conservation and Development Commission's (BCDC) Bay Plan. It guides BCDC on regulatory decisions concerning seaports. The Seaport Plan also constitutes the maritime element of the Metropolitan Transportation Commission's (MTC) Regional Transportation Plan. One of the principal purposes of the Seaport Plan is to reserve sufficient shoreline areas to accommodate future growth in maritime cargo through land use designations and policies, thereby minimizing the need for new Bay fill for port development.

The Seaport Plan designates certain lands, referred to as port priority use areas, around San Francisco Bay for port facilities and compatible uses. Marine terminals are specifically identified within port priority use areas. The number of marine terminal berths and the amount of land needed for this use are based on a forecast of the Bay Area waterborne cargo volume in the year 2020, and the capability of existing marines terminals to handle the projected cargo.

Process of updating the Seaport Plan.
The process of updating the 1988 Seaport Plan began in 1993 with the formation of the Seaport Plan Advisory Committee, consisting of representatives of Bay Area ports and regional agencies. Chaired by BCDC Chairman Robert Tufts, the Committee met monthly

from September 1993 to January 1995. Upon completion of the environmental assessment, the Committee approved the draft plan in January 1996. The BCDC Commission will consider approval of the Seaport Plan on April 18th.

Key Changes from 1988 Seaport Plan.
The key changes that affect the Port of San Francisco include: (1) removal of some port priority use areas; (2) provision for interim, non-port uses in port priority use areas under certain conditions; (3) establishment of a monitoring process for the region's maritime industry and an ongoing amendment process for Seaport Plan.

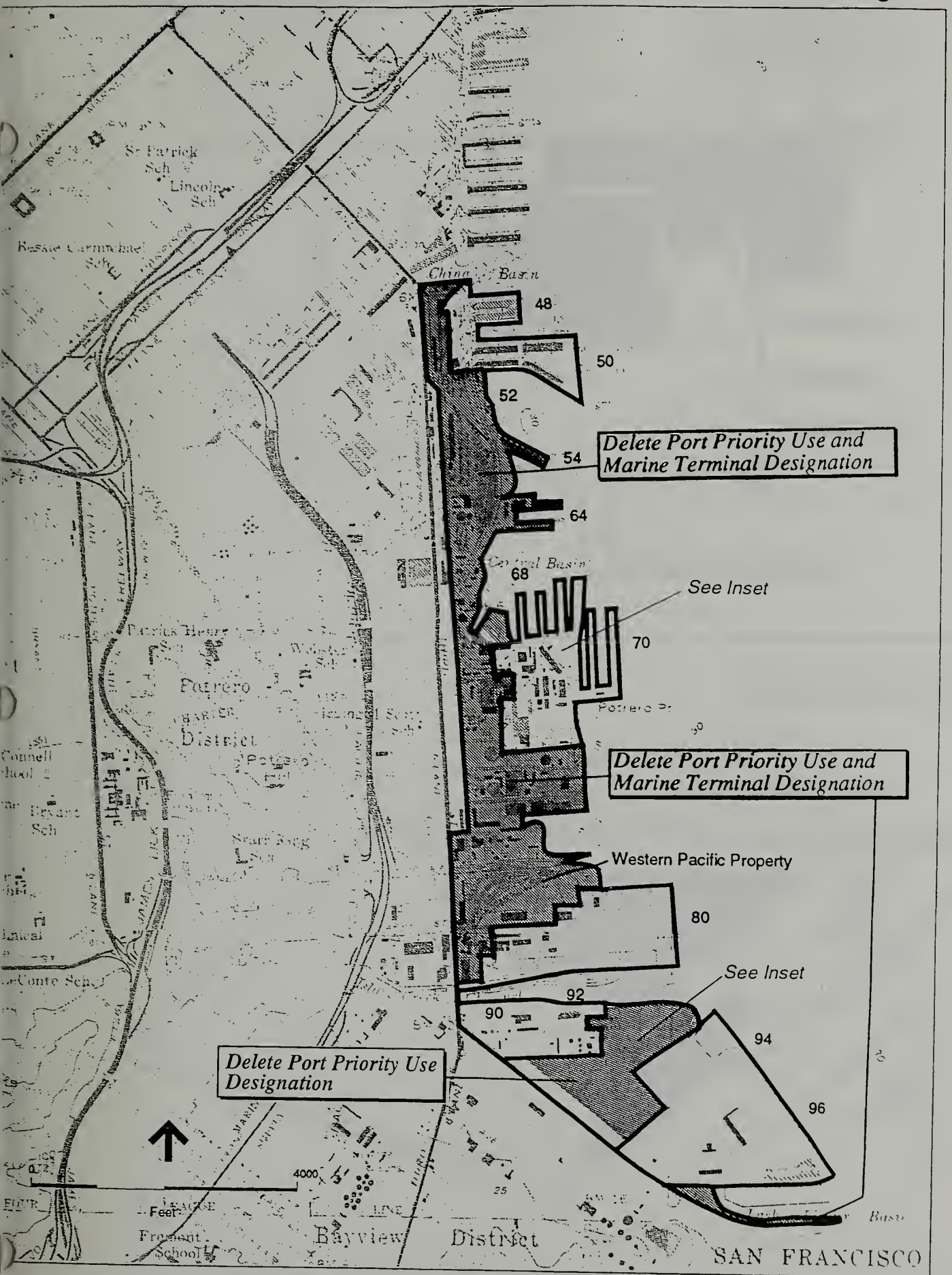
The 1988 Seaport Plan designated all Port of San Francisco property south of China Basin as a port priority use area, which designates these shoreline sites for maritime port use. The 1996 update of the Seaport Plan recommends that the port priority use designation be deleted from a number of the Port's property, in order to bring the plan in conformance with the City's Mission Bay Plan and as a result of the Seaport Advisory Committee's findings concerning the feasibility of future cargo activity in San Francisco. (See attached map)

The Seaport Plan recognizes that the Port of San Francisco's maritime facilities are underutilized and that the Port must be able to lease the properties for interim uses and generate revenues to keep the facilities in good repair. The revised interim use policy for port priority use areas would permit interim uses that are of a nature that allows the site to be converted to port use when it is eventually needed for marine terminal or a related use. The length of interim leases would be determined on a case-by-case basis, considering the amortization period associated with the investment for the proposed use, the lead time necessary to convert the use to a marine terminal or related use, and the expected need for the site to handle the type of cargo specified.

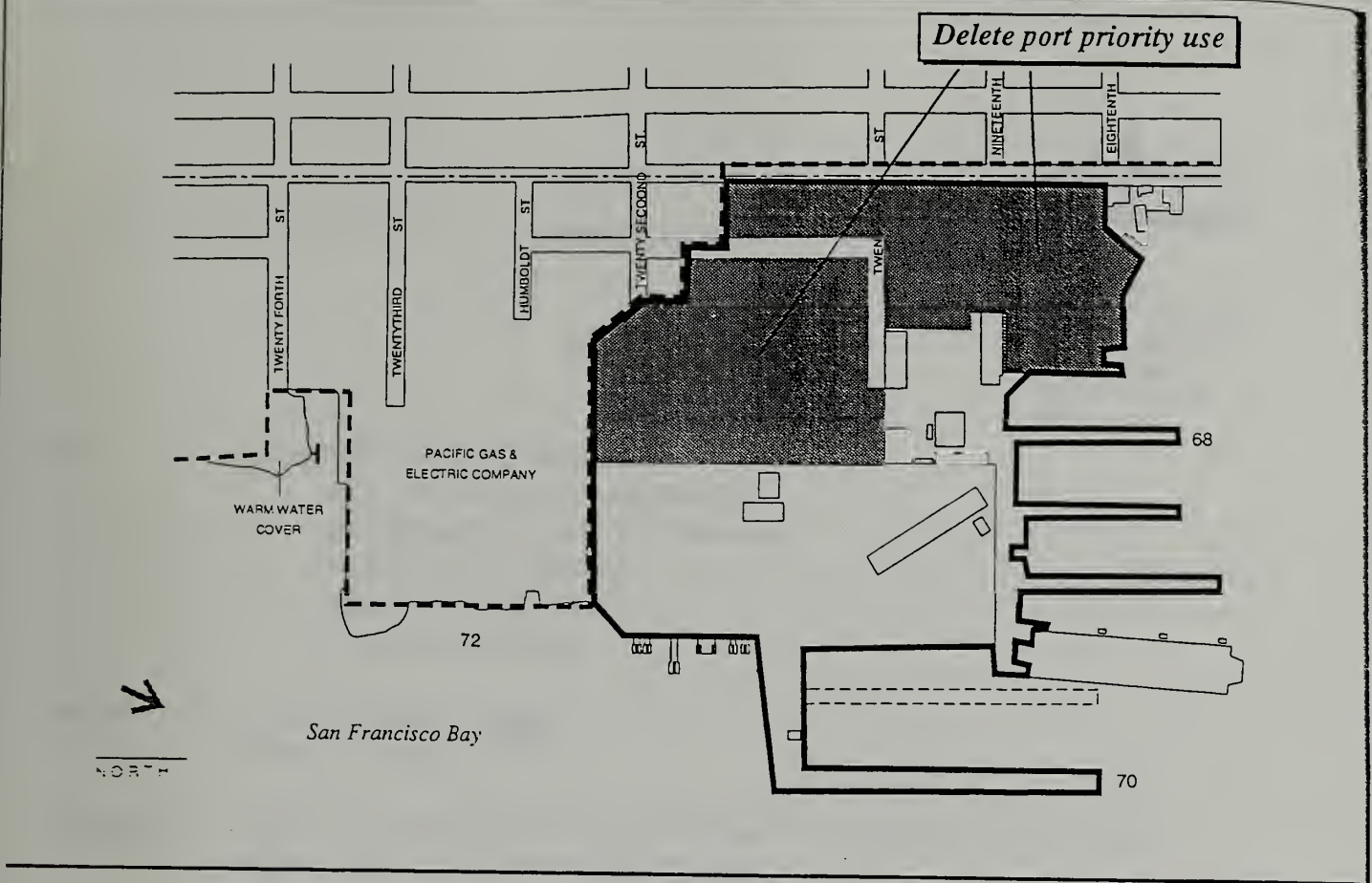
The Seaport Advisory Committee revised the prior policy of updating the Seaport Plan and cargo forecasts every 5 years. Instead, they propose an ongoing review and amendment of the Seaport Plan. Given the changes underway in the maritime industry, the Seaport Advisory Committee proposes to monitor regional cargo activity on an ongoing basis through a working subcommittee comprised of Bay Area ports and possibly cargo operators. Data on cargo volumes, types of cargo, berths uses and ship calls will be collected and published annually by the Committee. The information collected in the monitoring process will be used to review requested changes in port priority use designations and may also be used to justify long-term lease periods for certain Port priority use areas. Committee recommendations will be forwarded to the BCDC Commission for consideration.

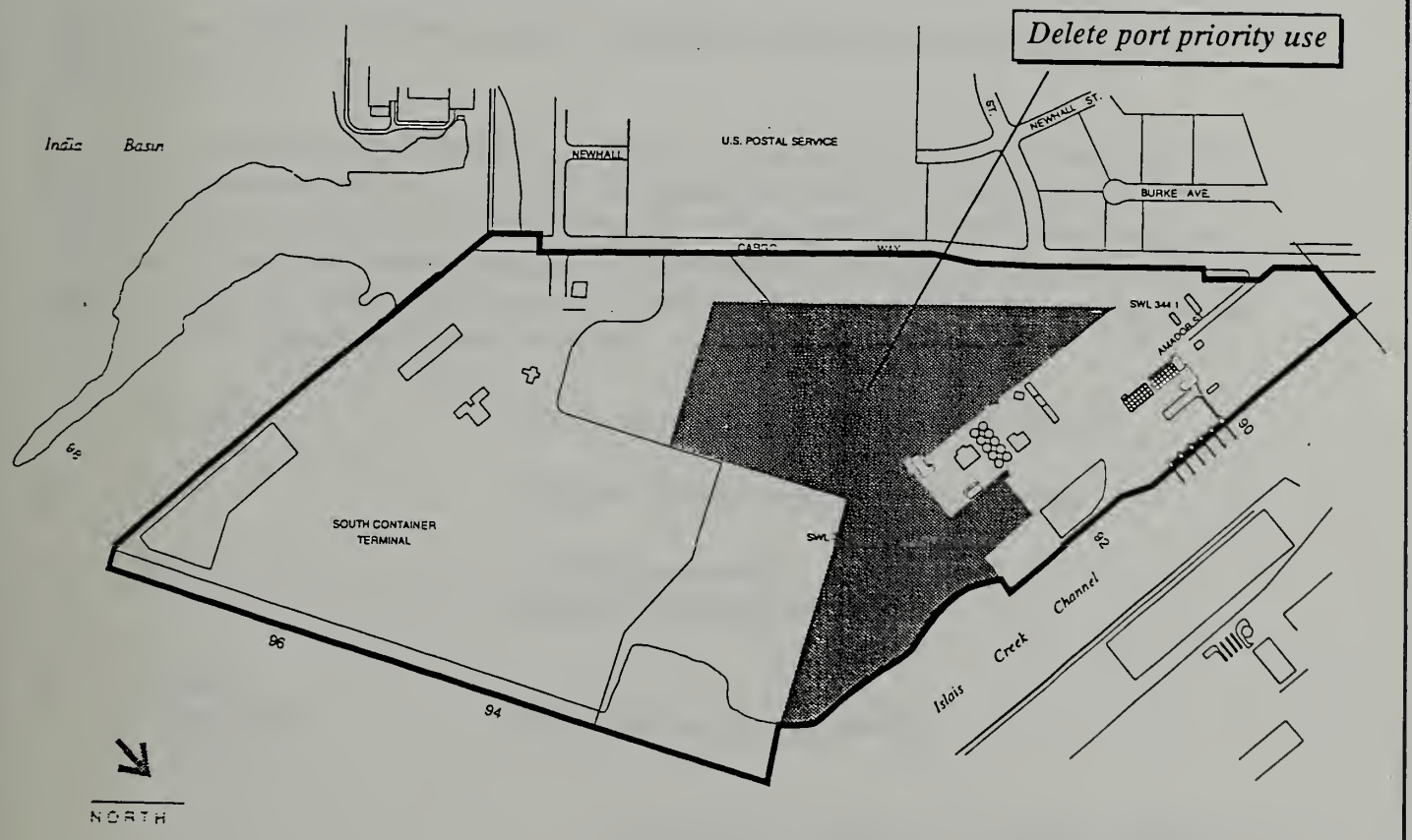
The policies of the 1996 Seaport Plan that pertain to the Port of San Francisco conform with the policies of the Port's Draft Waterfront Land Use Plan.

Prepared by:
Sharon Lee Polledri,
Director of Planning & Development



Port of San Francisco





Port of San Francisco (Insets)

PORT OF SAN FRANCISCO

MEMORANDUM

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Writer

April 17, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of a Lease with Goodwill Industries at Seawall Lot 337, Terry Francois Boulevard at Mission Rock Street

DIRECTOR'S RECOMMENDATION: APPROVE LEASE WITH GOODWILL INDUSTRIES

Goodwill Industries of San Francisco, San Mateo & Marin Counties, Inc., a California not-for-profit corporation, desires to lease 20,000 square feet of unpaved land at Seawall Lot 337, on Terry Francois Boulevard across from Pier 52, for the purpose of storing truck trailers containing clothing and household goods which are donated by the public. The site will not be open to the public. The Port and Tenant have negotiated a lease (L-12259) incorporating the Port's standard language with terms as follows:

1.	Premises:	20,000 square feet of land at Seawall Lot 337
2.	Term:	Month-to-Month commencing May 1, 1996
3.	Rent:	$1,600.00 per month Annual CPI Adjustment
4.	Monthly Rental Rate:	$.08 per square foot per month

THIS PRINT COVERS CALENDAR ITEM NO. 9A

5. Net Effective Rental Rate: $.08 per square foot per month

Commission approval is required because the rental rate of $.08 per square foot is below the standard leasing parameter of $.10 per square foot for land located south of China Basin. The rental rate has been adjusted because of the physical condition of the site and due to the uncertainty that the Tenant will be able to stay in the premises for any length of time. The land is unpaved, has low spots and the fencing is in poor condition. Goodwill is responsible for securing the site. The premises is located across from Pier 52 where a new public boat launch is being planned. The boat launch project may require land for parking or other support services in the area Goodwill will be leasing. In addition, as part of the Mission Bay Project, Catellus Development Corporation has the right to exercise an option to lease this parcel. Goodwill is aware that the lease may be terminated on thirty days' notice.

Prepared by: Frederick D. White, Director, Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-41

WHEREAS, Charter Section 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under Charter Section 3.581(g) leases and franchises granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and therefore be it

RESOLVED, that the Port Commission hereby approves that certain Lease between the Port and Goodwill Industries of San Francisco, San Mateo & Marin Counties, Inc., the terms of which are set forth in the Memorandum of Agenda Item No. 9A for the Port Commission Meeting on April 23, 1996, and hereby authorizes the Executive Director of the Port, or his designated Director of Tenant and Maritime Services, to execute the same on behalf of the Port.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 23, 1996.

_____

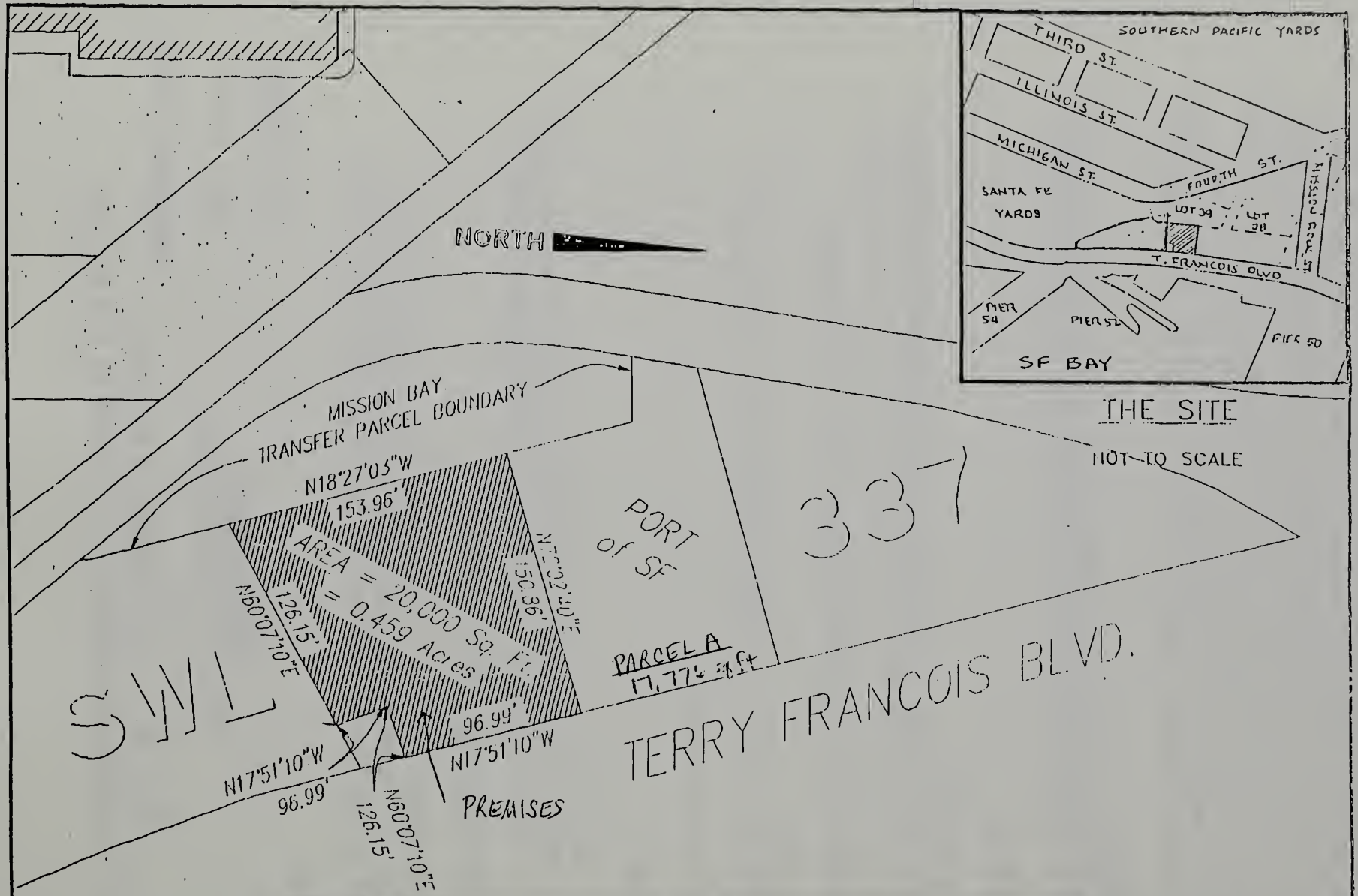

EXHIBIT A

INITIALS: Port____ Tenant____

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CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

DOCUMENTS DEPT.

MAY 17 1996

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MINUTES OF THE MEETING
APRIL 23, 1996

1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 4:12 p.m. The following Commissioners were present: Michael Hardeman, Frankie Lee, Frank O'Neill and James Herman. Commissioner Preston Cook was not present.

2. APPROVAL OF MINUTES - April 9, 1996

ACTION: Commissioner Lee moved approval; Commissioner Herman seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

3. EXECUTIVE

A. Executive Director's Report

(1) KFOG Sky Concert - will be held on Saturday, May 11, behind the Ferry Building.

(2) Whaleboat Race - will be held Wednesday, May 15 at the promenade.

(3) The PortFolio magazine has been met with great enthusiasm. Its subscription now exceeds 20,000. He gave kudos to Carolyn Macmillan and her staff for a job well done.

4. LEGISLATIVE

A. Support for Reform of the Passenger Services Act (PSA) to allow the Port of San Francisco to seize emerging market opportunities for new cruise business. (Resolution No. 96-40).

Mr. Bouey requested the Commission's support for staff to work with a coalition of other ports and businesses to amend the Passenger Services Act. He pointed out that the PSA is in no way related to the Jones Act. The PSA does not prohibit the carrying of passengers between U.S. Ports by foreign flag carriers but does impose a $200 penalty per passenger between those ports, in effect, prohibiting the transport of passengers between U.S. ports by these carriers. The purpose of these laws was to protect the shipping industry. Since 1958, U.S. shipyards have not built an ocean going overnight passenger vessel. As well, the number of employees employed on US passenger vessels has dwindled to a small number. In 1993, San Francisco had about 34 cruise calls and more than 50 cruise calls in 1994/95. This year, including

inland waterway vessels, the Port will have 77 cruise calls. Amending the PSA would generate as many as 72 new cruise calls per year for San Francisco and would create many new jobs. It would create new opportunities for longshoremen, teamsters, hotel and restaurant workers. On average, cruise passengers spend two nights in a local hotel, usually one before the trip and one after. Other Port tenants, such as SF Drydock, benefit as well. For ten years, the American Association of Port Authorities has supported changes to the PSA. Since 1994, the Port of San Francisco has become vigorously involved in supporting such changes and has been in the forefront of the movement seeking such change. In point of fact, the Port of San Francisco is one of the founding members of a new coalition attempting to change this law. However, there is an alternative proposal being floated around that will continue limiting entry into the U.S. domestic cruise market by non-U.S. flag vessels. The alternative proposal, as currently written, would only allow foreign built vessels to enter U.S. markets if they reflag their vessels and commit to building a new U.S. flag passenger vessel of a smaller berthing capacity of the vessel that was reflagged. In the next 3 or 4 years, 30 new cruise ships are coming on line. They will displace 30 other ships that will then be seeking itineraries. With the excess capacity, it is not rational to expect the U.S. shipbuilding industry to enjoy a boom of building new ships. The Port's point person on our effort has been Veronica Sanchez, who has been involved in the Cruising America to Promote Tourism and Jobs Coalition.

Commissioner O'Neill commented that he was under the impression that in 1994, cruise passengers spent an average of 4 days in hotels. Mr. Bouey replied that was contrary to his understanding but deferred to Veronica Sanchez. Ms. Sanchez replied that the statistic of one day before and after the cruise is correct. She does not believe the Bureau of Convention and Visitors has a different statistic and deferred to Gerry Roybal. Mr. Roybal stated that passengers typically stay two days, either in advance or at the end of the tour or split it one before and one after. This is based on talking to the passengers about their itineraries and how long they will stay in San Francisco.

Gunnar Lundeberg, President of the Sailors' Union of the Pacific, read the attached statement from his organization. He also mentioned that the Commission was provided the attached letter, via fax, from the Maritime Cabotage Task Force.

Tom Skowronski, Marine Engineers Beneficial Association, agrees and supports Mr. Lundeberg's remarks. George McCartney, Seafarer's International Union, also concurs and supports Mr. Lundeberg's statement and position. He added that the present time, U.S. shipyards have built and will build world-class passenger vessels. The major yards have obtained matching grants to design, build and market U.S. built ships. The General Accounting office issued a report identifying foreign flag cruise lines not paying corporate taxes. The General Accounting has also identified five U.S. government services which cruise lines pay little or nothing for. The House Ways and Means Committee is now examining these issues. Since the Port Commission has not had the benefit of a fair hearing on both sides of the issue, he requested that this item be postponed.

To avoid any misunderstanding, Commissioner Herman reiterated the difference between the Jones Act and the Passenger Services Act. He stated that the

Commission, under any circumstances, will not entertain any amendments to the Jones Act and added that the Commission is an enthusiastic supporter. This proposal is to try to achieve some kind of consensus around amendments that would reinstate American seafarers and would engage in a competitive relationship with foreign flag vessels. The origin of the PSA was the unfair competition from Canadian passenger ships who were taking all the jobs out of the American seafarers. He noted that we have never been invited from any of the organizations mentioned in the letter to provide input around the issue of the PSA. Although this bill is not subject to being passed until two or three years, there is time to listen to other points of view and have an equal amount of time to be heard. The proposal before the Commission today, in his judgement, is fair and equitable. He hopes that the seafarers union representative would understand the Commission's support for their most fundamental objective which is the preservation and enhancement of the Jones Act and an effort to return to the oceans American seafarers on passenger ships in respectable numbers so that we don't have a mutually exclusive approach. The PSA has not created any jobs for American seafarers. He appealed for the union's support on what is a constructive, objective approach to a difficult problem and work together so that everybody achieves something significant.

Commissioner Lee echoed Commissioner Herman's comments. He commented that this amendment to the PSA will create more jobs. He pointed out that only a short distance apart, Port of Seattle has 12 cruise calls and Port of Vancouver has more than 300 cruise calls.

Commissioner Herman then explained the amendment of the resolution which the Commission Secretary read for the record.

Mr. Gunnar Lundeberg stated that he appreciates the intent of the amendment to restate the Commission's support for the Jones Act and for the American Merchant Marine. He then inquired if a foreign flag operator could come in with a small vessel, foreign flag, a foreign crew and could leave the Port of San Francisco and go to Port of Stockton and Sacramento on different cruises. Commissioner Herman replied that this remains protected but no small foreign flag ships could go into the inland waterways and compete with any American company that is providing service in the area. They may do so in the absence of an American flag operator but they must abandon that service as soon as an American flag operator chooses to take that run. Mr. Lundeberg contends that they realize the needs of workers in the San Francisco bay area. At this point in time, the reactionaries in the country lumped the Jones Act and the Passenger Services Act. He made it clear that their organizations are not in the business to deprive people of work. He appealed to the Commission to table this issue until they have more time to present more information to the Commission and to the public. Mr. Lundeberg asked the Commission to add another amendment to urge the Congress to extend U.S. labor laws to foreign flag vessels that would transit our coast so that American seafarers and their organization would have an opportunity to make a decent living.

After further discussion, Mr. Bouey suggested that Ms. Veronica Sanchez call Mr. Lundeberg and share any statistics or pertinent documents to Mr. Lundeberg. Ms.

Sanchez concurred.

In response to Mr. Lundeberg's request for a public presentation, Commissioner Hardeman replied that the Commission is given a biweekly update of advantages of changing this Act and Ms. Sanchez will provide him with the pertinent documents. Mr. Bouey cautioned that while Mr. Lundeberg has a legitimate request, certain documents are privy and must be guarded. Mr. Bouey offered to meet with Mr. Lundeberg and Mr. McCartney at their request and others in the industry regarding this issue.

Commissioner Hardeman commented that as a union leader, this is a difficult issue to be involved in. However, as a representative of the Port and the City and County of San Francisco, this is in the Port's best interest and concurs with the rest of the Commissioners.

ACTION: Commissioner Lee moved approval; Commissioner O'Neill seconded the motion. All of the Commissioners were in favor; the resolution, as amended, was adopted.

5. TENANT & MARITIME SERVICES

A. Authorization to issue Request for Proposals to lease Mission Rock Resort Restaurant located at 817 Terry Francois Boulevard. (Resolution No. 96-33)

Mr. Bouey stated that this item appeared before the Commission in different form sometime ago. A finding was made that under the Port leasing policy, staff was required to do an RFP. Four responses were received at that time; but none of which were considered to be in the Port's best interest. Consequently, the issue was studied and looked at how the RFP could be reformed in such a manner that it would present a viable option for prospective bidders and at the same time provide the type of service and standards that the Port requires. Staff today presents an RFP with a proposal to rent only the 8,000 sq. ft. restaurant and land in an "as is" condition. The marina, which was a significant financial item, has been deleted. Staff will look at what can be done to restore the marina. The terms include a 15-year lease with two 5-year options at fair market value; the use is for a restaurant with optional uses to include live entertainment; a private club will not be permitted. The base rent is to be proposed by the prospective bidders; however, it cannot be less than $2,000 per month. The percentage will be proposed but it cannot be less than 7% for a full service dining, 9% for casual dining and 9% for retail. As well, the prospective bidder has to cure all code violations, replace the second floor deck and stairs, replace the roof gutters down spouts and make cosmetic improvements to the exterior of the building and perform asbestos removal. The selection process will be done by a panel and he then enumerated the criteria for the point system. Attendant to this are certain affirmative action requirements and staff hopes to bring back a prospective tenant sometime in September.

In response to Commissioner Herman's inquiry about minority/gender hiring requirements, Mr. Bouey replied that the provisions of Chapters 12B and 12C of the

Administrative Code have been incorporated into the RFP and required the tenant to implement an affirmative action plan to ensure equal employment with its operation. He also added that the Port makes special effort to reach out into local, women and minority owned business communities to get them to participate in the process. The lease also contains MBE/WBE participation goals for the construction of improvements included in the proposal. He explained that between 20 to 30 percent of construction dollars have to be allocated to minority and women-owned businesses.

Ms. Norma Wahl from the Mission Rock Resort stated that she paid $200,000 for the business in 1965, without a bid proposal. For the last six years, they have been in operation with no lease and no promise despite the fact they submitted a lease proposal that covered the Port's demands with an option of a $250,000 loan to upgrade the Mission Rock. They have been in compliance with the Port's demands as well as equal employment opportunities. Through the years, they have acquired many friends and true Mission Rockers who will attest in support of the Mission Rock. They have worked for 21 years and feel deserving of the lease.

Commissioner Lee commended staff for incorporating Chapters 12B, 12C and 12D in the RFP. In terms of the construction contract and A/E professional contract, staff has done an excellent job in the community outreach; however, the Port has to pursue more minority, women and small enterprises' participation with regard to leases through community outreach and advertisement.

Mr. Bouey commented that Commissioner Lee's comments are well taken and staff will take all opportunities to increase both minority and women-owned businesses at the waterfront. He added that the Port's MBE/WBE percentages, however, is high. As an example, Ms. Norma Wahl is a woman-owned business. A Port policy outlines those instances where leases can be renegotiated, rather than RFP. Unfortunately, Ms. Wahl's past performance does not warrant qualification of that policy.

Commissioner O'Neill also commended staff for its work and encouraged staff to listen to those bidders who have ideas/suggestions regarding the marina. Mr. Bouey replied that there's a possibility of incorporating the marina but our past experience of including the marina as a mandatory item hindered the project.

ACTION: Commissioner Lee moved approval; Commissioner Herman seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

B. Approval of Port Park Code and Port Park Rules and Regulations covering certain park and public access areas located on Port property. (Resolution No. 96-21)

Mr. Bouey stated that staff believes that it's in the Port's best interest to set codes regulating activities on Port property for park and public access. This code has been adopted directly from the City's Park Code which covers City property under the jurisdiction of Parks & Recreation. This proposed park code will cover the South Beach Park and other areas Port property designated for public access. Additionally, staff is also addressing Redevelopment Agency's concerns by delegation of authority

of the park code to the Redevelopment Agency so that they may set rules and issue permits for the South Beach Park.

Commissioner O'Neill thanked Neil Sekhri for taking the time to meet with him and requested to amend the Port signs to include not only skateboards but also rollerbladers and bicycles. Mr. Bouey pointed out that this may pose a Sunshine Ordinance problem since rollerbladers and bicyclists were not notified about this change. He suggested that perhaps the Task Force on Skateboarding look into the rollerblading and bicycling concerns and amend the park code per their recommendation. Commissioner Herman suggested leaving the signs as is until a resolution is achieved from the Police Department and subcommittee of the Commission. Commissioner O'Neill inquired if the park code can be amended at a later time to include rollerbladers and bicyclists on Port signs. Mr. Bouey concurred.

ACTION: Commissioner Lee moved approval; Commissioner O'Neill seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

6. FACILITIES & OPERATIONS

7. PLANNING & DEVELOPMENT

A. Status report on the Ferry Building Renovation Project.

Mr. Bouey stated that the purpose of this presentation is to review what's been done over the last three months. In the first phase of the feasibility study, potential uses as well as the amount of money necessary to renovate the building were reviewed. The revenue stream for those potential uses left approximately $30 million gap. Early on, there were indications that the gap would be met by grant monies from Congress. In November 1994, the Ferry Building renovation project was placed on the ballot for exemption from the Prop H moratorium. Unfortunately, there was a change in Congress at the same election and the reexamination of many programs which included the program that would have provided the cash subsidy for this project. The gap has been reduced to about $20 million and staff believes the gap will be down to zero within the next year or so.

Director of Planning Sharon Lee Polledri stated that in July 1993 a public workshop was held to establish public goals for the renovation of the Ferry Building project when the ISTEA grant was received to formulate the RFP objectives as well as the EIR. The public objectives are as follows: the public nature of the building should be enhanced; transportation should be the primary theme and focus of the building; the ground floor should be opened up in a way to encourage access and visibility and improve connections between water and land base modes of transportation; the gallery on the second floor should be restored to the extent feasible and there should be a mix of public and commercial spaces in the building. To hone down the $30 million gap, last year, they looked at those objectives and relooked at some of the physical design and cost estimates. With the help of Polshek and partners, they have developed more detailed, foundation analysis of the 5,000 piles that support the Ferry Building,

provided a more detailed review of mechanical, electrical systems, seismic retrofitting and hazardous materials. Additionally, they've looked at retention of the major tenants within the building to reduce the cost of relocating tenants. They also looked at increasing the building's efficiency in the potential layout of the building. As a result, the gap has been reduced by approximately $10-$15 million. What the plans depict is an illustrative concept of a possible project that meets public objectives; it is not the development or the actual project.

Mr. Paul Osmundson, project manager, described the schedule and future steps. He mentioned that they will continue working on closing the financial gap in the next year. To make the project more financially feasible, they are looking at securing additional small federal grants, as well as in their discussion with the Dept. of Transportation, they looked at the possibility of obtaining some financial backing, credit enhancement and looking at other financial mechanisms to further close the gap. The schedule laid out covers several ongoing activities such as preparation of the environmental review documents, concurrently securing approvals from the State Historic Preservation office as well as the local Landmarks Board with respect to conceptually approving the plans for the building. They will also work on the funding approach, structuring financially feasible project and also negotiating with long-term tenants in the building. They will continue to monitor real estate conditions.

To have a feasible project in mid-1997, they would look to prepare a developer RFQ to bring a private party into the project to structure a public/private venture. An advisory group will also be established as part of the process. In 1998/1999, a developer will be selected and negotiate a developer agreement to the project. The Mid-Embarcadero project and the Downtown Ferry Terminal project will be closely coordinated with the Ferry Building project. He assured the Commission that staff is closely coordinating with the CAO's staff, City Planning Department and Port's engineering staff to ensure that our planning for the long-term renovation of the building is consistent with what we are going to build. The projected start of construction for the Mid-Embarcadero project will be mid-to-late 1997 and projected completion date of mid-1999. The Downtown Ferry Terminal project is anticipated to go into construction next year and completed in mid-1998.

Commissioner Lee stated that the Ferry Building is the second most important building structure in the City. This building needs help and commended staff for working so diligently and creatively to obtain financing. He, however, commented that the schedule is not aggressive enough. He pointed out that we wouldn't want the building finished while the Mid-Embarcadero project is not done and inquired if both the building and roadway project be done at the same time. Mr. Bouey replied that this is a possibility but money is the driving force. If we think we may be able to close the gap in the near future, this schedule can and will be accelerated. This is a rational approach to a given situation unless the situation changes. There are built-in changes to the schedule so it can be shortened. Commissioner Lee stated that in addition to the financial aspect, equally important is public support. He suggested getting the Mayor's office and the public to support the project. Staff should diligently make this happen and he offered whatever assistance he can provide to make this project move forward.

Commissioner O'Neill inquired about the Mid-Embarcadero project. Mr. Osmundson responded that they have published a draft environmental document. They have settled on a preferred alignment for the roadway. They should have the environmental document certified by the City Planning Commission and by the Board of Supervisors by August or September. As far as construction, they allow 12-14 months to finalize the design documents; they are looking at fall of 1997 for construction. In response to Commissioner O'Neill's inquiry about the preferred design, Mr. Osmundson replied that the split roadway alternative is preferred. Port staff has been working with the CAO's office on ensuring that this design is safe, it accommodates all pedestrians crossing the roadway, accommodates F-line passengers and accommodates special events. He added that the Port Commission has the ultimate jurisdiction over the roadway project. He noted that Rebecca Kohlstrand from the CAO's office will be presenting the environmental document for the Commission's approval sometime in July or August.

Commissioner Hardeman concurred that staff has done a great job. He agreed with Commissioner Lee that this is extremely, if not, the most important building in San Francisco. With the renaissance of the waterfront, it will be quite the attraction.

B. Report on the 1996 Seaport Plan.

Sharon Lee Polledri, Director of Planning & Development, stated that BCDC Commission approved the 1996 Seaport Plan on April 18, 1996. The new Seaport Plan contains several changes that are favorable to the Port of San Francisco:

(1) Recognizing the changes underway in the maritime industry, the Seaport Plan Advisory Committee proposed to monitor regional cargo activity on an ongoing basis. A working subcommittee comprising Bay Area ports and cargo operators will participate. The committee will publish annual regional data on cargo volumes, types of cargo, berth uses and ship calls.

This information will be used to review changes in Port priority use designations. This is an improvement over the previous policy which required the Seaport Plan to be updated every five years, based on cargo forecasts. This is a more responsive planning process where ongoing review of market conditions and policies and amendments on the Seaport Plan will take place.

(2) The Seaport Plan acknowledges that the Port must be able to generate revenues to keep its facilities in good repair. The interim use policy was revised to allow interim uses in Port priority areas that do not impair the future use of the area when it is eventually needed for a maritime terminal or related use.

The length of the leases would be determined on a case-by-case basis, taking into account the length of time needed to amortize the initial investment, the lead time necessary to convert the use to a marine terminal and the anticipated need for the site for the type of cargo specified.

(3) The 1988 Seaport Plan designated all Port of San Francisco property south of

China Basin as Port priority use area. This designates these shoreline sites for maritime port use only.

As depicted on the attached maps to the Commission's memorandum, the 1996 Seaport Plan deletes this designation from a number of properties, in order to bring the plan in conformance with the City's Mission Bay Plan and as a result of the Seaport Advisory Committee's findings concerning the feasibility of future cargo activity in San Francisco.

Port priority use designations remain on Pier 48, portions of Pier 70, Pier 80, Piers 90-92 and 94-96.

The Seaport Plan policies pertaining to the Port of San Francisco conform with the Port's Waterfront Plan. The Seaport Plan is part of BCDC's Bay Plan and it is the maritime element of MTC's Regional Transportation Plan.

8. ADMINISTRATION

9. CONSENT CALENDAR

A. Approval of lease with Goodwill Industries at Seawall Lot 337, Terry Francois Boulevard at Mission Rock Street. (Resolution No. 96-41)

ACTION: Commissioner Lee moved approval; Commissioner O'Neill seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

10. NEW BUSINESS / PUBLIC COMMENT

Commissioner Hardeman stated that, from his point of view, the Mayor's Economic Summit was the best educational forum he's ever attended.

Commissioner Hardeman also mentioned that the Mayor's office had called to inform the Commission and staff that he could not attend today's Commission meeting but will be attending one of the future Commission meetings.

11. EXECUTIVE SESSION

At 5:53 p.m., the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following matters:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin). Person Negotiating: Port representative: Dennis P. Bouey, Executive Director *San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS

1) Sheedy v. CCSF; San Francisco Superior Court No. 963-103; pursuant to subdivision (a) of California Government Code Section 54956.9

2) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

At 7:00 p.m., Commissioners Hardeman, Lee, O'Neill and Herman returned from executive session and convened in public session.

ACTION: Commissioner Lee moved approval to not disclose any information discussed in the executive session; Commissioner O'Neill seconded the motion. All of the Commissioners were in favor.

The meeting was adjourned at 7:02 p.m.

Sailors' Union of the Pacific

BROTHERHOOD OF THE SEA S.U.P. ORG. 1885

TELEPHONE . . . . . (415) 777-3400
CABLE ADDRESS "SAILORS"
FAX . . . . . (415) 777-5088

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HEADQUARTERS: 450 HARRISON STREET
SAN FRANCISCO, CALIFORNIA 94105

GUNNAR LUNDEBERG • PRESIDENT/SECRETARY-TREASURER

April 23, 1996

STATEMENT TO THE SAN FRANCISCO PORT COMMISSION REGARDING THE PASSENGER SERVICES ACT OF 1886

The Sailors' Union of the Pacific firmly believes that repeal of the Passenger Services Act would undermine the cabotage laws which ensure that the domestic waterborne commerce of the United States is carried in American vessels crewed by American seafarers.

Repeal of the Passenger Service Act and its companion cabotage law that is applicable to cargo vessels—The Merchant Marine Act of 1920 (Jones Act)—would result in a takeover of our domestic waterborne transportation system by foreign companies employing foreign nationals. Foreign-flag passenger vessels, specifically, would be able to operate between U.S. ports exempt from the American tax system, labor laws, safety statutes, environmental requirements and a host of other laws. The Port Commission should well recall the sinking of the passenger vessel *Rio de Janerio* off the Golden Gate in 1901, resulting in hundreds of deaths. In this instance the foreign seamen could not understand nor execute the orders given by their officers.

The cabotage laws of this nation are under attack by the same group of so-called "free traders" that would export American jobs overseas. This is not the time for the Port to give encouragement to this pact of economic buccaneers. Rather it is time to not only defend these very basic statutes of American commerce, but to urge the Congress of the United States to enact legislation to revive the American merchant marine and this nation's shipyards.

GL:tea
ope-3-afl-cio (146)

Maritime Cabotage Task Force

TELECOPIER COVER PAGE

Tuesday, April 23, 1996
Please Deliver Immediately!
Thank You.

TO: Mike Hardeman ✓
Frankie Lee
Francis O'Neill
James Herman
Preston Cook
Port Commission
Port of San Francisco

(Company)

415-274-0412

(Telecopy Number)

FROM: Philip Grill

34908-99999

Number of Pages including cover page: 5

COMMENTS:

If you do not receive all pages, PLEASE CONTACT SENDER AT (202) 628-1700

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Maritime Cabotage Task Force

April 23, 1996

Mr. Mike Hardeman
Port Commission
Port of San Francisco
Ferry Building
Suite 3100
San Francisco, CA 94111

Dear Commissioner Hardeman:

On behalf of more than 400 companies, associations, organizations and other entities representing every facet of the American maritime industry and representatives from other modes of domestic transportation, I urge you to delay your proposed vote this afternoon on a resolution supporting repeal of the Passenger Vessel Services Act.

Many members of our organization have direct ties to the State of California in general and the Port of San Francisco in particular. We would appreciate an opportunity to share our views with you before any final vote is taken. It is indeed unfortunate that a vote on this resolution has proceeded to this point without any consultation with our organization, the largest coalition in the history of the maritime industry, a coalition with interests directly related to cabotage laws like the Passenger Vessel Services Act.

I apologize for this late communication but we only learned of the planned vote within the last several hours. A copy of our membership list is enclosed for your review.

Sincerely,

Philip Grill

Philip Grill, Chairman
Maritime Cabotage Task Force

Maritime Cabotage Task Force

A. H. Powers, Inc
Advance Boiler and Tank Co.
Adventure Cruises, Inc.
AFL-CIO Maritime Committee
Afram Carriers, Inc.
Ahrenkiel Ship Management U.S., Inc.
Air Line Pilots Association
Alaska Cargo Transport, Inc.
Alaska Sightseeing Tours
Alaska Transportation Company
Alfa-Laval, Inc.
All States Drilling & Blasting
Allied Towing Corporation
Allouez Marine Supply Co.
Amerada Hess Corporation
American Automar, Inc.
American Bureau of Shipping
American Classic Voyages Co.
American Commercial Barge Line Company
American Foreign Shipping Company, Incorporated
American Hawaii Cruise Lines
American Heavy Lift Shipping Co.
American Industrial Motor Svce.
American Inland Mariners Association
American Institute of Merchant Shipping
American Marine Constructors, Inc.
American Maritime Congress
American Maritime Officers
American Maritime Officers Service
American Overseas Marine Corporation
American Pacific Transport
American President Companies
American Security Council
American Shipbuilding Association
American Steamship Company
American Trucking Associations
American Waterways Operators, Inc.
American Waterways Shipyard Conference
American WorkBoats
Ameron Protective Coatings
Anixter Appleton
Apex Marine Corporation
Argo International Corproation
Arkansas Valley Dredging Company, Inc.
Carter Construction
Arnold Transit Company
Avondale Industries, Inc.
B.B. Riverboats, Inc.
Bauer Interiors, Inc.
Bayfront Marine, Inc.
Bay Houston Towing Company
Bay Shipbuilding Company
Bay Tankers, Inc.
Bean Dredging Corporation
Belle Carol Riverboat Co.
Belt Maintenance Company
Bender Shipbuilding & Repair Co., Inc.
Benson Electric Company
Bigane Vessel Fueling Company
Bird-Johnson Company
Blackstone Valley Tourism Council
Blount Industries, Inc.
Bludworth Bond Shipyard, Inc.
Blue Water Excursions
Bollinger Quick Repair
Bossert Industrial Supply
Bourg Dry Dock & Service Company
Brady Marine Repair Company
Brent Transportation Corporation
Bridgeport/Port Jefferson Steamboat
Brotherhood of Locomotive Engineers
Brotherhood of Maintenance of Way Employees
Buchanan Enterprises, Inc.
C.G. Willis, Incorporated
C.J.C., Inc
Calcasieu Shipyard, Inc.
California Marine Cleaning, Inc.
Cape Fear Towing Company, Incorporated
Capital Fleet, Inc.
Caterpillar, Inc.
Central Gulf Lines, Inc.
Central Radio Telegraph Co.
Channel Shipyard Company, Inc
Chotin Carriers, Inc.
Christiana Marine Service Corporation
Cleveland Shiprepair Co.
Cleveland Tankers Ship Management, Inc.
Clipper Cruise Line
Coalition for Peace Through Strength
Coastal Barge Corporation
Coastal Marine
Colle Towing Company, Inc.
Coltec Industries, Inc.
Compass Rose Yacht Charters
Connolly-Pacific Company
Cooper Bessemer
Coscol Marine Corporation
Cove Shipping, Incorporated
Crescent Towing Company, Inc.
Crowley American Transport, Inc.
Crowley Maritime Corporation
Crowley Marine Services, Inc.
Cunningham & Walker Marine Consultants
Designers & Planners, Inc.
Devall Towing & Boat Service, Inc.
Dixie Carriers, Inc.
Dixie Fuels Limited
Dixie Marine, Inc.
Dredging Contractors of America
Drew Chemical Corporation
Durocher Dock & Dredge, Inc.
Edward E. Gillen Company
Elliott Bay Design Group, Ltd.
Elliott Turbine
Empress River Casino
Energy Transportation Corporation
Erie Marine Enterprises
Erie Sand Steamship Co.
Express Marine, Incorporated
Fabco Equipment, Inc.
Farrell Lines, Inc.
Fishing Vessel Owners Marine Ways
Florida West Coast Cruises, Inc.
Food and Allied Service Trades Department, AFL-CIO
Fort Sumter Tours, Inc.
Foss Maritime Company
Fraser Shipyards, Inc.
Freeport Shipbuilding
G&H Towing
Gage Corporation, Int.
Gallagher Marine Construction Co., Inc.
Garner Environmental Services, Inc.
Gateway Riverboat Cruises
General Electric Marine Service
Gibson & Cushman Dredging Corporation
Goldstein and Price
Goodtime Cruise Line, Inc.
Gray Line Water Tours, Inc.
Great Lakes Conveyor Belt
Great Lakes Dredge & Dock Company
Great Lakes Towing Company
Gulf Craft, Inc.
Gulf Marine Repair Corp.
Hallett Dock Co.
Hannah Marine Corporation
Harbor Docking & Towing Company, Inc.
Hatch & Kirk, Inc.
Hawaii Transportation Association
Hawaiian Tug & Barge Corp./ Young Brothers, Ltd.
Hendry Corporation

man Towing Company
ıe Heke Corporation
dba:EXPEDITIONS
eman Brothers, Inc.
ıston Marine Training Svcs.
&T Company, Inc.
dson River Cruises, Inc.
ıter Marine Transport, Inc.
sky Terminal & Stevedoring, Inc.
de Marine Incorporated
ide Shipping Inc.
de Products
Place Machining Co.
ustrial Union Department, AFL-CIO
nd Lakes Management, Inc.
rior Design International
rlake Steamship Co.
rnational Association of Machinists and
Aerospace Workers
rnational Brotherhood of Boilermakers,
Iron Ship Builders, Blacksmiths,
Forgers and Helpers
rnational Brotherhood of Electrical
Workers
rnational Brotherhood of Teamsters
rnational Longshoremen's and
Warehousemen's Union
rnational Longshoremen's
Association, AFL-CIO
rnational Marine Carriers, Inc.
rnational Marketing & Business, Inc.
rnational Organization of Masters,
Mates & Pilots
rnational Ship Masters' Association
rnational Ship Repair & Marine
Services, Inc.
rnational Union of Operating Engineers
rocean Ugland Management
Corporation
rstate Valweld
nd Tug & Barge Company
s of Shoals Steamship Co.
ortina, Inc.
D Services
es Hughes, Inc.
estown Metal Marine Sales, Inc.
boat/Louisiana Dock
sen Maritime Consultants
n Bludworth Marine, Inc.
gle Queens, Inc.
lampanattu Corporation
lenberg Brothers Company
l Senner, Inc.
G Company, Inc.

Kinsman Lines, Incorporated
Kirby Corporation
Kirby Tankships, Inc.
L & S Electric
Labor-Management Maritime
Committee, Inc.
Laborers' International Union of North
America
Lake Carriers' Association
Lake Mead Cruises
Lake Michigan Carferry Service, Inc.
Lake Michigan Contractors, Inc.
Laughlin River Tours, Inc.
Liberty Bell Cruises
Liberty Maritime Corporation
Litton Great Lakes Corporation
Loomis & Lapann, Inc.
Lueddke Engineering Company
Luhr Bros., Inc.
Lykes Bros. Steamship Company, Inc.
Lyon Shipyard, Inc.
M. Rosenblatt & Son, Inc.
Manson Construction and
Engineering Company
Marcol Dredging Company
Marine Contracting Corporation
Marine Firemen's Union
Marine Hospitality Corporation
Marine Inland Transportation Co.
Marine Oil Service, Incorporated
Marine Systems, Inc.
Marine Transport Lines, Inc.
Marinette Marine Corporation
Maritime Institute for Research and
Industrial Development
Maritime Overseas Corporation
Maritime Trades Department, AFL-CIO
Maritrans GP Inc.
Maryland Marine, Inc.
Matson Navigation Company, Inc.
McAllister Brothers, Incorporated
McAllister Towing and Transportation
Company, Inc.
McDermott, Inc.
McDonough Marine Service
McGinnis, Inc.
Medusa Corporation
Memphis Queen Line, Inc.
Merchant Mariners Fairness Committee
Mercury Sightseeing Boats
Metal Trades Department, AFL-CIO
Michigan Maritime Trades Port
Council, AFL-CIO
Mid-South Dredging Company

Midland Marine Corporation
Midwest Energy Resources Company
Missouri Barge Line Company
Missouri Dry Dock & Repair Co.

Moran Towing & Transportation
Company, Inc.
Morania Oil Tanker Corporation
Mormac Marine Group Inc.
Multicom
National Maintenance & Repair
National Marine Engineers'
Beneficial Association
National Maritime Union
National Steel & Shipbuilding Co.
Navieras/NPR, Inc.
Neuman Boat Line, Inc.
Neuman Cruise & Ferry Line
New Orleans Steamboat Co.
Nicholas Bachko Company, Inc.
Norfolk Shipbuilding &
Drydock Corporation
North Ferry Company
Nott Company
Oahu Express
Ocean Specialty Tankers Corp.
Offshore Marine Service Association
Offshore Marine Supply Company
Oglebay Norton Co.
Olympic Tug & Barge, Inc.
Omega Products
OMI Corporation
OMR Transportation Co.
Orgulf Transport Company
PPR Inc.
Pacific-Gulf Marine, Inc.
Packer Marine, Inc.
Padelford Packet Boat Co.
Passenger Vessel Association
Penn Maritime, Inc
Peterson Builders, Inc.
Petroleum Service Corporation
Phillips' Cruises & Tours
Pine Bluff Sand & Gravel Company
Piney Point Transportation
Pinnacle Marine Corporation
Propulsion Controls Engineering
Puget Sound Freight Lines, Incorporated
R & J Transport
Rail Systems, Inc.
River City USA
Riverboat Tours, Inc.
Runyon Industries, Inc.
RV Charters, Inc.

MCTF

Sabine Towing & Transportation Co., Inc.
Sabine Transportation Company
Sailors' Union of the Pacific
Save Our Ships Campaign, Inc.
Sayville Ferry Service, Inc.
Sea-Barge, Inc.
Sea-Land Service, Inc.
Seafarers International Union of North America
Sea Patriot
Seaworthy Systems, Inc.
Service Marine Industries, Inc.
Sheet Metal Workers International Association
Shipbuilders Council of America
Shoreline Contractors, Inc.
Southeast Shipyard Association
Southern Dredging Company, Inc.
Southern Towing Company
Southwest Marine, Inc.
Southwest Shipyard, Inc.
Spar Associates, Inc
Stan Stephens Charters
Stapp Towing Company, Inc.
Star Fleet
Star Line Mackinac Island Ferry
Stokes Towing Company, Inc.
Suderman & Young Towing
Sun State Marine Services, Inc.
Superior Boat Works, Inc.
T. L. James & Company, Inc.
T.T. Barge Service, Inc.
Talen's Marine & Fuel, Inc.
Tampa Town Ferry
Tenneco Newport News Shipbuilding & Dry Dock Co.
Tennessee Valley Towing
The Delta Queen Steamboat Company
The Dubuque Diamond Joe
The Glosten Associates, Inc.
The Great Lakes Towing Company
The Jore Group
The Ohio River Company
The Rosie Paddleboats, Inc.
The Waterways Journal, Inc.
Timco Industries, Inc.
Timothy Graul Marine Design/TGMD, Inc.
Todd Pacific Shipyards, Inc.
Toledo Port Maritime Council
Toledo Ship Repair Company
Tom Naughton Associates
Totem Ocean Trailer Express
TPT Transportation Co.
Transportation Institute
Transportation Trades Department, AFL-CIO
Transportation-Communications Union
Travel Systems, Ltd./M.S. Dixie II
Trinity Marine Group, Inc.
Turecamo Coastal & Harbor Towing Corporation
Turecamo Maritime
Union Dry Dock & Repair
United Association of Journeymen & Apprentices of the Plumbing & Pipe Fitting Industry of the United States & Canada
United Automobile, Aerospace & Agricultural Implement Workers of America (UAW)
United Brotherhood of Carpenters and Joiners of America
United States Maritime Coalition
United Steelworkers of America
United Steelworkers of America-Local 5000
United Transportation Union
Upper Lakes Towing
USS Great Lakes Fleet, Inc.
Victor Fluid Power
Viking Boat Tours of Newport
Virgin Island Fast Ferries
W. S. Patterson
Warrior & Gulf Navigation Company
Washington Island Ferry Line
Waterman Steamship Corporation
Water Taxi
Waterways Cruises, Inc.
Weeks Marine, Inc.
Wendella Sightseeing Boats
WESCO
Westar Marine
Westchester Marine Shipping
West Coast Shipping
Western Towing Company, Inc.
Westport Shipyard
Williams Steel
Wisconsin Bearing
Women's Propeller Club of the United States
Women's Propeller Club of the United States, Port of San Diego
World Yacht Cruises
W & O Supply, Inc.
WP & RS Mars Co.
Wright Dredging Company
Ziegler, Inc.

MCTF

DOCUMENTS DEPT.

MAY 1 0 1996

SAN FRANCISCO
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SAN FRANCISCO PORT COMMISSION

REGULAR MEETING
4:00 P.M., TUESDAY, MAY 14, 1996
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - April 23, 1996

3. **SPECIAL ITEM**

   A. Mayor's Address to the Commission

4. **EXECUTIVE**

   A. Executive Director's Report

5. **TENANT & MARITIME SERVICES**

   A. Approval for the Executive Director to Enter into Entry Permits with Geomatrix and Treadwell & Rollo for Environmental and Geotechnical Investigations and Indemnity Agreement with China Basin Ballpark Company ("Giants") (Resolution No. 96-48)

6. **FACILITIES & OPERATIONS**

   A. Authorization to advertise for competitive bids for Contract 2616, "Pier 35 Passenger Terminal Elevator/Escalator Project." (Resolution No. 96-43)

7. **PLANNING & DEVELOPMENT**

   A. Approval of the Executive Director to apply and accept $2.4 million in Section 1064, Ferry Boat Discretionary Funds, from the Federal Highway Administration,(FHWA) for the Downtown Ferry Terminal project. (Resolution No. 96-42)

8. **ADMINISTRATION**

9. **CONSENT CALENDAR**

   A. Approval of Lease Termination Agreements with Patrick Davis and Barbe Seafoods, Inc. at Pier 28 (Resolution No. 96-44)

B. Approval of Lease Termination Agreement with Lusamerica Foods, Inc. at Pier 45. (Resolution No. 96-45)

C. Approval of travel for one Port representative to attend the National Transportation Enhancements Conference in Washington, D.C., in accordance with the Port's FY 1995/96 budget. (Resolution No. 96-46)

D. Approval of travel for two Port representatives to attend the Norfolk Harborfest in Norfolk, VA, in accordance with the Port's FY 1995/96 budget. (Resolution No. 96-47)

10. NEW BUSINESS / PUBLIC COMMENT

11. EXECUTIVE SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment ✓ Both

An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS

1) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

The City Attorney is of the opinion that based on existing facts and circumstances, discussion of existing and anticipated litigation matters in open session would prejudice the legal position of the Port. An executive session is specifically authorized under California Government Code Section 54956.9(c).

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. ADJOURNMENT

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary.

DISABILITY ACCESS

The Port Commission office is located on the third floor of the Ferry Building, Suite 3100.

The Port office is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) will be available. The closest accessible BART station is Embarcadero Station located at Market and Steuart Streets. The closest accessible MUNI Metro station is Embarcadero station located at Market and Spear Streets. Accessible MUNI lines serving the Ferry Building are the 9, 31, 32 and 71. For more information about MUNI accessible services, call 923-6142.

There is accessible parking at the Ferry Building and at the public lot in the Embarcadero median in front of the Ferry Building.

Assistive listening devices are available for use in the Port Commission Meeting.

The following services are available on request 72 hours prior to the meeting. Please contact Frank Palumbo at (415) 274-0559. Late requests will be honored if possible.

- American Sign Language Interpreters
- The use of a reader during the meeting
- A Sound Enhancement System
- Minutes of the Meeting in Alternative Formats
- Large Print of the Agenda

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-6075.

PORT OF SAN FRANCISCO

MEMORANDUM

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

May 9, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval for the Executive Director to Enter into Entry Permits with Geomatrix and Treadwell & Rollo for Environmental and Geotechnical Investigations and Indemnity Agreement with China Basin Ballpark Company ("Giants").

DIRECTOR'S RECOMMENDATION: APPROVE RESOLUTION

The Giants desire to conduct geotechnical and environmental studies of certain Port properties within the area commonly known as Pier 46B/Seawall Lot 336. These investigations are intended to assist the Giants in determining the suitability of the Property for a ballpark (the "Project") and are a necessary first step to negotiate the lease and disposition and development agreement. The Giants have contracted with Geomatrix to conduct the environmental investigation and Treadwell & Rollo to conduct the geotechnical investigation. The Port desires to provide these permits to the consultants to assist the Giants in investigating the Property.

These permits do not commit the Port to issuance of any additional permits to allow any person to carry out the Project when the investigations are completed. Geomatrix and Treadewll & Rollo will provide the Port with copies of all boring logs, sample and laboratory test results promptly upon receipt and copies of any reports prepared by them documenting the results of the work conducted pursuant to these permits.

THIS PRINT COVERS CALENDAR ITEM NO. 5A

The Port's standard entry permit requires a broad indemnity, including coverage for damage to utilities and hazardous material investigations or remediation efforts mandated by other governmental agencies regardless of the fault or negligence of the Permittee. In this case the Giants and their consultants have requested that the indemnity be limited in several respects, largely because the Giants have advised that such insurance is not available for such risks. The indemnity in the permits to the consultants will not cover damages to utilities and liability for pre-existing toxics due to no fault of the consultants. The Giants have agreed to indemnify the Port for these risks with certain limitations. The Giants will pay 50% of the first $100,000.00 and 75% of the next $600,000.00 of such costs, whether or not the Giants proceed with the Project. If the Giants decide not to proceed with the Project, their liability terminates three years after they notify the Port of their decision not to pursue the Project and regardless of the cause of the liability.

The Giants have expressed a strong commitment in proceeding with this Project and an intent to assume environmental remediation responsibilities with the Project once they have entered into a lease with the Port.

Prepared by: DENNIS P. BOUEY
Executive Director

I:\INVEST.MEM

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-48

WHEREAS, the Giants desire to conduct geotechnical and environmental studies of certain Port properties within the area commonly known as Pier 46B/Seawall Lot 336. These investigations are intended to assist the Giants in determining the suitability of the Property for a ballpark (the "Project"); and

WHEREAS, the Giants have contracted with Geomatrix to conduct the environmental investigation and Treadwell & Rollo to conduct the geotechnical investigation. The Port desires to provide these permits to the consultants to assist the Giants in investigating the Property; and

WHEREAS, these permits do not commit the Port to issuance of any additional permits to allow any person to carry out the Project when the investigations are completed. Geomatrix and Treadwell & Rollo will provide the Port with copies of all boring logs, sample and laboratory test results promptly upon receipt and copies of any reports prepared by them documenting the results of the work conducted pursuant to these permits; and

WHEREAS, the Port's standard entry permit requires a broad indemnity, including coverage for damage to utilities and hazardous material investigations or remediation efforts mandated by other governmental agencies regardless of the fault or negligence of the Permittee. In this case the Giants and their consultants have requested that the indemnity be limited in several respects, largely because the Giants have advised that such insurance is not available for such risks. The indemnity in the permits to the consultants will not cover damages to utilities and liability for pre-existing toxics due to no fault of the consultants. The Giants have agreed to indemnify the Port for these risks with certain limitations. The Giants will pay 50% of the first $100,000.00 and 75% of the next $600,000.00 of such costs, whether or not the Giants proceed with the Project. If the Giants decide not to proceed with the Project, their liability terminates three years after they notify the Port of their decision not to pursue the Project and regardless of the cause of the liability; and

WHEREAS, if the Giants decide not to proceed with the Project, their liability terminates three years after they notify the Port of their decision not to pursue the Project; and

WHEREAS, the Giants have expressed a strong commitment in proceeding with this Project and an intent to assume environmental remediation responsibilities once they have entered into a lease with the Port; and

RESOLVED, that the San Francisco Port Commission hereby approves the entry permits with Treadwell & Rollo and Geomatrix and the limited indemnity agreement with the Giants, substantially in the form attached hereto and that the Executive Director is hereby authorized in consultation with the City Attorney to execute the agreements and any other necessary documents and to take all such actions as necessary to carry out the intent of the agreements.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 14, 1996.

_____
Secretary

AGREEMENT

This Agreement is entered into this _____ day of _____, 1996, by and between the City and County of San Francisco, a municipal corporation acting through the San Francisco Port Commission ("Port"), and China Basin Ballpark Company LLC, a Delaware limited liability company ("Giants").

RECITALS

This Agreement is entered into on the basis of the following facts, understandings and intentions of the Parties:

A. Giants desire to have environmental and geotechnical consultants study certain Port property within the area commonly known as Pier 46B/Seawall Lot 336, more particularly shown on Exhibit A, attached hereto (the "Property"). The consultants' studies are intended to verify the suitability of the Property for a ballpark (the "Project").

B. In contemplation of a future fair market value lease or disposition and development agreement with the Giants, the Port desires to assist the Giants in determining whether the Property is suitable for future development of the Project by granting the Giants' consultants permits to enter the property to conduct geotechnical and environmental investigations.

C. The geotechnical and environmental investigations of the Property may identify conditions that will require further investigation or environmental remediation, whether or not the Property is developed for the Project.

D. In consideration of the Giants' agreement to share in certain costs associated with Investigation and Remediation that may be required at the Property as set forth herein, Port agrees to provide Giants' consultants access to the Property for Investigation activities as provided in the attached permits to enter.

E. The Port and the Giants wish to set forth their understandings as they relate to Investigation and Remediation of the Property and Hazardous Materials Releases arising from the Property whether or not the Property is developed for the Project.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES, THE PORT AND GIANTS HEREBY AGREE AS FOLLOWS:

Section 1. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

(a) Environmental Laws, Hazardous Material, Permitted Activities, and Release shall have the meanings assigned to them in the Permits.

(b) "Investigation" shall mean activities undertaken to determine the nature and extent of Hazardous Materials which may be located on or under real property, or which have been, are being, or threaten to be Released to the environment.

(c) "Regulatory Agency" shall mean any local, state or federal agency with jurisdiction under law for Investigation and Remediation of Hazardous Materials at the Property.

(d) "Remediation" shall mean activities undertaken to cleanup, remove, contain, treat, stabilize, monitor or otherwise control Hazardous Materials located on or under real property or which have been, are being or threaten to be Released into the environment.

Section 2. Permits to Enter. Simultaneous with entering into this Agreement, the Port agrees to grant the Giants' consultants, permits to enter the Property in connection with geotechnical and environmental investigations, which permits are attached hereto as Exhibits "B" and "C" (the "Permits").

Section 3. Indemnity. Subject to the limitations of Section 6 hereof, Giants shall indemnify, hold harmless and defend the City and Port and their officers, agents and employees, from and against any and all claims, demands, actions, causes of actions or suit (actual or threatened), losses, costs, expenses, obligations, liabilities, or damages, including interest, penalties, engineering fees, consultant fees and attorneys' fees of every kind, nature and description (collectively "Claims") arising in any manner out of: (i) any injury to or death of any person or damage to or destruction of any property occurring in, on, under or about the Property, or any part thereof, whether to the person or property of Giants, its employees, agents, consultants, contractors, or subcontractors (collectively "Agents") or third persons, resulting from giants or its Agents use of the Property under the Permits, including without limitation, any Release of a Hazardous Material located in, on, under or about the Property or which is migrating or has migrated from the Property ("Hazardous Materials at the Property"), caused by or allowed by Giants or its Agents, whether or not the Hazardous Material at the Property was present prior to the execution of this Agreement; or (ii) any requirement of a Regulatory Agency for Investigation or Remediation of any

Hazardous Material at the Property arising out of or in connection with the activities under the Permits; except solely to the extent of Claims resulting directly from the negligence or willful misconduct of City or Port or either's authorized representative.

Section 4. Obligation to Defend Port. In addition to Giants' obligation to indemnify Port and City as provided in Section 3, but subject to the limitations of Section 6, Giants specifically acknowledges and agrees that it has an immediate and independent obligation to defend Port and City from any Claim which actually or potentially falls within the indemnification provision of Section 3, even if the allegations are or may be groundless, false or fraudulent. Giants' obligation to defend shall arise at the time such Claim is tendered to Giants' by Port or City and shall continue at all times thereafter.

Section 5. No Costs to Port or City. This Agreement does not place any obligations on Port to perform any Investigation or Remediation activities or expend any funds. Giants acknowledges and agrees that all Investigation and Remediation activities conducted pursuant to the Permits, shall be done in a safe and reasonable manner, in accordance with a workplan approved in

writing by Port and in accordance with all laws, regulations and orders of any governmental or other regulatory entity, including all Environmental Laws.

Section 6. Limitation on Indemnity. With respect to any Claims covered by Section 3 or obligations covered by Section 4, the following limitations shall apply: Giants shall pay on a matching basis with Port in accordance with the following ratio, fifty percent (50%) of the first one hundred thousand dollars ($100,000) and seventy-five percent (75%) of the next six hundred thousand dollars ($600,000) of reasonable costs which Port is obligated to incur to comply with (i) a written directive or requirement of a Regulatory Agency to Investigate or Remediate Hazardous Materials at the Property, or (ii) any other Claim, which arises directly or indirectly out of or in connection with the activities conducted by consultants under the Permits (subject to Section 15(m) hereof). Such payments by Giants shall be made promptly to Port or to such other entity as directed in writing by Port, provided Port concurrently pays its matching share.

Section 7. Communications with Regulatory Agency. Giants and Port agree to work cooperatively with any Regulatory Agency

that oversees the Investigation and Remediation of any Hazardous Materials at the Property. To the maximum extent feasible, the Giants and Port agree to jointly communicate with any Regulatory Agency and to provide copies to the other party of any correspondence sent to or received from any Regulatory Agency that oversees the Investigation and Remediation of any Hazardous Material at the Property.

Section 8. Term of Agreement.

(a) This Agreement shall terminate (i) three years after notice as provided in Section 8(b) that Giants no longer has an interest in developing the Property for the Project or (ii) Giants acquires an interest in the Property in the form of a duly executed lease or disposition and development agreement (in which event the provisions of any such lease or disposition and development agreement shall supersede this Agreement).

(b) Giants' notice to Port that it no longer has an interest in developing the Property for the Project, shall be effective on the later date of (i) notice as provided in Section 10, from Giants to Port that Giants no longer has an interest in developing the Property for the Project, or (ii) notice as provided in Section 10, from Giants to Port that Giants'

consultants have completed any Investigation activities that its consultants have commenced pursuant to the Permits. The notice provided pursuant to Section 8(b)(ii) shall be accompanied by all boring logs, sample or laboratory test results and any reports prepared by Giants or its consultants, documenting the results of any investigation work.

(c) If Port terminates either of the Permits in accordance with the terms thereof, Giants' obligations hereunder shall not be affected by any such termination.

Section 9. No Waiver of Liability. The Port shall not be liable for any damage to the property of Giants, its officers, employees, agents, contractors or subcontractors, or their employees, or for any bodily injury or death to any such officer, employee, agent, contractor or subcontractor, or their employees, resulting or arising from the condition of the Property or its use under the Permits with the exception of damage or injury caused solely by the active, willful or intentional misconduct of the Port, its officers, agents or employees.

Section 10. Notice. Any notices required to be given or which any party desires to give under the terms of this Agreement shall be given by personal delivery, or by deposit with the

United States Postal Service, certified mail, return receipt requested, and postage prepaid, addressed to the party to be served as follows:

To Port: Director, Facilities and Operations
Port of San Francisco
3100 Ferry Building
San Francisco, CA 94111

With a Copy To: Port General Counsel
Port of San Francisco
3100 Ferry Building
San Francisco, CA 94111

To Giants: Laurence Baer, President
China Basin Ballpark Company LLC
c/o Executive Officer
3 Com Park at Candlestick Point
San Francisco, CA 94124

With a Copy To: Jack Bair, Secretary
China Basin Ballpark Company LLC
c/o Executive Officer
3 Com Park at Candlestick Point
San Francisco, CA 94124

The parties hereto may give notice pursuant to this section of other persons to receive future notices on their behalf. Notices herein shall be deemed given on the date of personal delivery or two (2) business days after the proper deposit of the same with the United States Postal Service.

Section 11. As Is Condition of Property; Disclaimer of Representations. For purposes of this Agreement, Giants accepts the Property in its "AS IS" condition, without representation or

warranty of any kind by City or Port, its officers, agents or employees, and subject to all applicable laws, rules and ordinances governing the use of the Property. Without limiting the foregoing, this Agreement is made subject to any and all covenants, conditions, restrictions, easements, encumbrances and other title matters affecting the Property, whether foreseen or unforeseen, and whether such matters are of record or would be disclosed by an accurate inspection or survey.

Section 12. Assignment.

(a) Giants shall not make or permit any assignment or other transfer ("Transfer") of this Agreement except with the prior written consent of Port in each instance as evidenced by Port Commission resolution and in full compliance with all of the terms and provisions of this Section. Any Transfer of this Agreement occurring without full compliance with all of the terms and conditions hereof shall constitute an incurable breach by Giants and shall be voidable at the option of Port. A Transfer shall include, but not be limited to, any Transfer of any controlling interest in Giants.

(b) Request for Transfer. Giants shall give Port at least thirty (30) days prior written notice of any desired Transfer

(herein "Notice of Request to Transfer") and shall provide Port with the following information in writing: (1) the name, address, legal composition and ownership of the proposed transferee, (2) the current balance sheet and profit and loss statements (herein "financial statements") for the proposed transferee and for any other entity or person who is to be liable for Giants' obligations under this Agreement, such financial statements to be certified in writing to be true and correct and to be prepared in accordance with generally accepted accounting principles and to cover a period of three years prior to the proposed effective date of the Transfer (or for such shorter period as the proposed transferee or other person may have been in existence), (3) a full description of the terms and conditions of the proposed Transfer, including copies of any and all proposed and all assignment agreements or other documents and instruments concerning the proposed Transfer, (4) a current financial statement of Giants, and (5) any other information, documentation or evidence as may be requested by Port, all in sufficient detail to enable Port to evaluate the proposed Transfer and the prospective transferee to ensure that the proposed transferee has the financial capacity to perform the financial obligations of the Giants under this Agreement. Giants' Notice of Request to

Transfer shall not be deemed to have been served or given until such time as Giants has provided Port with all information set forth hereinabove. Giants shall immediately notify Port of any modifications to the proposed terms of the Transfer.

(c) Port's Consent/Refusal to Consent. Upon receiving a Notice of Request to Transfer, Port shall have the right to do any of the following:

(1) Port may consent to the proposed Transfer, subject to any reasonable conditions upon such Transfer, which conditions may include, without limitation, that the proposed transferee expressly assume all obligations of Giants under this Agreement without, however, Port releasing Giants therefrom.

(2) Port may deny its consent to the proposed Transfer on any reasonable ground. Reasonable grounds shall include, without limitation that the proposed transferee's financial condition is or may become insufficient to support all of the financial and other obligations of this Agreement.

Section 13. No Joint Venturers or Partnership; No Authorization. This Agreement does not create a partnership or joint venture between Port and Giants or its consultants as to any activity conducted by Giants or its consultants, on, in or

relating to the Property. Giants is not a State actor with respect to any activity conducted by Giants on, in, or under the Property. This Agreement with Port does not constitute authorization or approval by Port or City of any activity conducted by Giants on, in or relating to the Property.

Section 14. MacBride Principles - Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Giants acknowledges that it has read and understands the above state of the City and County of San Francisco concerning doing business in Northern Ireland.

Section 15. Non-Discrimination. Giants shall not, in the operation and use of the Property, discriminate against any person or group of persons solely because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, gender identity, disability or acquired immune deficiency syndrome

(AIDS) or AIDS related condition (ARC). The provisions of Chapters 12B and 12C of the San Francisco Administrative Code, relating to nondiscrimination by parties contracting with the City and County of San Francisco, are incorporated herein by reference and made a part hereof as though fully set forth herein. Giants agrees to comply with all of the provisions of such Chapters 12B and 12C that apply to parties contracting with the City and County of San Francisco.

Section 16. Tropical Hardwoods. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood product.

Section 17. General Provisions.

(a) This Agreement may be amended or modified only by a writing signed by Port and Giants.

(b) No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver.

(c) All approvals and determinations of City requested, required or permitted hereunder may be made in the sole and absolute discretion of the Executive Director of the Port of San Francisco or other authorized City official.

(d) This instrument (including the exhibits hereto) contains the entire agreement between the parties concerning this Agreement and all prior written or oral negotiations, discussions, understandings and agreements are merged herein.

(e) The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement.

(f) Time is of the essence.

(g) This Agreement shall be governed by California law and City's Charter.

(h) If either party commences an action against the other with respect to this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees of City shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience.

(i) Giants may not record this Agreement or any memorandum hereof.

(j) Subject to the prohibition against assignments or other transfers by Giants hereunder, this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns.

(k) This Agreement may be executed in counterparts.

(l) Except as is otherwise specifically provided for in this Agreement, invalidation of any provision of this Agreement, or of its application to any person, by judgment or court order, shall not affect any other provision of this Agreement or its application to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purposes of this Agreement.

(m) Nothing in this Agreement shall be interpreted to limit in any way the obligations of consultants pursuant to the Permits. Furthermore, nothing in this Agreement shall give the

Giants any right to enter the Property. All rights of entry shall be governed by the terms and conditions of the Permits.

(n) If Giants signs as a corporation or a partnership, each of the persons executing this Agreement on behalf of Giants does hereby covenant and warrant that Giants is a duly authorized and existing entity, that Giants has and is qualified to do business in California, that Giants has full right and authority to enter into this Agreement, and that each and all of the persons signing on behalf of Giants are authorized to do so. Upon Port's request, Giants shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties.

(o) Any and all obligations of Giants hereunder associated with any Claim covered by Section 3 or 4 made or known during the term of this Agreement shall survive the termination of this Agreement.

"GIANTS"
CHINA BASIN BALLPARK COMPANY LLC,
A DELAWARE LIMITED LIABILITY
COMPANY

By:_____

"PORT"

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation, acting by
and through the PORT OF SAN
FRANCISCO

By:_____

APPROVED AS TO FORM

LOUISE H. RENNE
City Attorney

By:_____
Deputy City Attorney

PERMIT TO ENTER PROPERTY IN CONNECTION WITH GEOTECHNICAL INVESTIGATION

This Permit to Enter and Use Property (the "Permit") is entered into this _____ day of May, 1996, by and between the City and County of San Francisco ("City"), a municipal corporation acting through the San Francisco Port Commission ("Port"), and Treadwell & Rollo, Inc., a California corporation ("Permittee").

R E C I T A L S

This Permit is entered into on the basis of the following facts, understandings and intentions of the Parties:

A. Permittee desires to conduct a geotechnical study for a ballpark (the "Project") on certain Port property within the area commonly known as Pier 46B/Seawall Lot 336 (the "Property").

B. The Port desires to provide this Permit to assist Permittee in investigating the Property. The Port has no budgeted funds to assist Permittee in performing geotechnical investigations or in carrying out the Project.

C. This Permit does not commit the Port to issuance of any additional Permits to allow any person to carry out the Project when the geotechnical investigations are completed.

D. The Port and Permittee wish to set forth their understandings as they relate to Permittee's use of the Property for geotechnical investigation.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES, THE CITY, THE PORT AND PERMITTEE HEREBY AGREE AS FOLLOWS:

Section 1. Grant of Use. Port hereby grants to Permittee and its contractors and consultants a temporary, non-possessory, non-exclusive right to enter upon and use that certain real property owned by the Port, said property being more particularly shown on Exhibit "A" attached hereto ("Permit Area"). Permittee's use of the Permit Area shall be subject to the conditions and restrictions set forth in this Permit.

Section 2. Use of the Permit Area. Permittee shall use the Permit Area for the sole purpose of undertaking the geotechnical investigation activities described in the attached Exhibit "B" (the "Permitted Activities"). Any amendments or alterations to the Permitted Activities to be performed by the Permittee pursuant to this Permit must be approved in writing by Port prior to performance of the work.

Permittee shall provide the Port with copies of all boring logs, sample or laboratory test results promptly upon receipt and a copy of any reports prepared by Permittee documenting the results of the work conducted by Permittee pursuant to this Permit. If any soil investigation permitted hereby involves the drilling of holes having a diameter dimension that could create a safety hazard for persons, said holes shall, during any drilling operations, be carefully safeguarded and shall upon the completion of said drilling operations be refilled (and compacted to the extent necessary) to the level of the original surface penetrated by the

drilling. Any hole drilled shall, if not refilled and compacted at the end of each day's operations, be carefully safeguarded and secured after the completion of each day's work. Except for wells needed for subsequent monitoring or wells Port requests Permittee to leave in place, Permittee shall abandon any wells placed on the Permit Area in accordance with San Francisco Department of Public Health protocols.

Section 3. Conditions Precedent. Permittee's right to use the Permit Area is expressly subject to Permittee having provided satisfactory evidence of the insurances required pursuant to Section 13 of this Permit.

Upon issuance of this Permit, Permittee shall pay Port a fee of $_____ to compensate Port for costs associated with the issuance of the Permit and oversight of activities related thereto.

Section 4. Term of Permit. The rights granted pursuant to this Permit are temporary only and shall commence on May ___, 1996, and shall expire on the sooner of _____, 1996, or completion of the tasks described in Exhibit B. If Permittee fails to materially comply with the terms and conditions of this Permit and such failure is not cured by Permittee within five (5) days of notice by Port, or in the case of a non-compliance which cannot be cured within five (5) days, Permittee has not commenced and is not diligently pursuing the cure of said non-compliance, this Permit shall terminate and Permittee shall forthwith remove all equipment and installations from the Permit Area, and shall restore the

Permit Area to its former condition if the work has a material adverse effect on the Permit Area.

Section 5. No Interference With Use. Permittee shall not materially interfere with or obstruct Port's, Port Tenant's or Tenant's invitee's use of the Permit Area, or their conduct of normal business operations thereon. Work performed pursuant to this Permit must be conducted in or at a reasonable time and location acceptable to Port.

Permittee will take reasonable action to locate utilities that may be located in, on, under or about the Permit Area and protect the same from damage. Permittee will immediately notify Port of any damage to subsurface utilities.

Port shall provide Permittee with those records within its possession that are reasonably available to it concerning utilities located in, on, under or about the Permit Area. Port shall also make available to Permittee its records and employees to facilitate Permittee's location of utilities. Permittee acknowledges that Port does not have complete and accurate information concerning the location of utilities and does not have the resources to review all of the historical records within its possession which may contain information concerning the location of utilities.

Section 6. Compliance With Laws/Hazardous Materials.

a. Definitions.

(1) "Environmental Laws" means any federal, state or local laws, ordinances, regulations or policies relating to Hazardous Material (including, without limitation, their use,

handling, transportation, production, disposal, discharge or storage) or to health and safety, industrial hygiene or environmental conditions in, on, under or about the Permit Area, including, without limitation, soil, air, bay water and groundwater conditions.

(2) For purpose of this Permit, the term "Handle" or "Handling" means to use, generate, process, produce, package, treat, store, emit, discharge or dispose.

(3) For purpose of this Permit the term "Hazardous Material" shall mean any substance or material which has been determined by any state, federal, or local government authority to be a hazardous or toxic substance or material, including without limitation, any hazardous substance as defined in Section 101(14) of CERCLA (42 USC Section 9601(14)) or Sections 25281(f) or 25316 of the California Health and Safety Code, and any hazardous material as defined in Section 25501(k) of the California Health and Safety Code, and any additional substances or materials which at such time are classified or considered to be hazardous or toxic under any federal, state or local law, regulation or other exercise of governmental authority.

(4) For purposes of this Permit, the term "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of any Hazardous Material (including the abandonment or discarding of barrels,

containers, and other closed receptacles containing any Hazardous Material or pollutant or contaminant).

b. Compliance with Laws. All activities performed on the Permit Area by Permittee, its officers, agents, employees, contractors and subcontractors (collectively, "Agents") shall be done in a safe and reasonable manner, in accordance with all laws, regulations and orders of any governmental or other regulatory entity, and in such manner as not to cause or allow any Hazardous Material to contaminate soils or groundwater on, under or about the Permit Area. Before beginning any work in the Permit Area, Permittee shall obtain any and all permits, licenses and approvals of all regulatory agencies that are required to commence and complete the Permitted Activities.

c. No Hazardous Materials. Except for groundwater and soil containing Hazardous Materials extracted from the Permit Area by Permittee in accordance with the Permitted Activities, and any Hazardous Materials reasonably necessary for conducting the Permitted Activities under this Permit, Permittee covenants and agrees that neither Permittee nor any of its Agents shall handle any Hazardous Materials in, on, under or about the Permit Area. All Hazardous Materials handled by Permittee on the Permit Area during the term of this Permit shall be handled in compliance with all Environmental Laws. Permittee shall protect its employees and the general public in accordance with all Environmental Laws. Port may from time to time request, and Permittee shall be obligated to provide, information reasonably adequate for Port to determine that

any and all Hazardous Materials are being handled in a manner which complies with all Environmental Laws.

d. Removal of Hazardous Materials. Prior to the termination of this Permit, Permittee, at its sole cost and expense, shall cause to be removed any and all Hazardous Materials extracted from or introduced in, on, under or about the Property by Permittee or its Agents. All costs of storage, shipping and disposal of extracted soils and groundwater shall be the responsibility of Permittee including, without limitation, the costs of preparation of shipping papers. Permittee will appropriately contain and label Hazardous Materials and non-hazardous materials and will promptly inform the Port that such action has been performed.

Permittee shall prepare a Hazardous Materials manifest utilizing Port's EPA identification number. Port agrees to provide an authorized representative to execute any Hazardous Materials manifest required by law. Permittee will consult with the Port concerning the treatment or disposal of Hazardous Materials. At Port's direction, Permittee will contract with Port selected transporter and Port selected disposal facilities for removal, transport and disposal of all Hazardous Materials required to be shipped with a Hazardous Materials manifest. Notwithstanding the foregoing, Permittee shall not be an owner, operator, generator, arranger, or transporter as defined by the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), or the Superfund Amendments and

Reauthorization Act of 1986 ("SARA"), the California Porter-Cologne Water Quality Act, or any other applicable law or regulation.

Section 7. No Costs to Port. Permittee shall bear all costs or expenses of any kind or nature in connection with the Permitted Activities, including but not limited to all costs of excavation, construction, operation, sampling, monitoring, testing, transporting and disposing of soil or groundwater and backfilling, and shall keep the Permit Area free and clear of any mechanics' liens or other claims of lien arising out of or in any way connected with its use of the Permit Area.

Section 8. Repair of Damage. If any portion of the Permit Area, or any other property of the Port or its employees located on or about the Permit Area, is damaged by any of the activities conducted by Permittee, its officers, agents, employees, contractors or subcontractors, Permittee shall immediately, at its own cost and expense, repair any and all such damage and restore said property to its previous condition.

Section 9. Indemnity.

(a) General Indemnity. Permittee agrees to indemnify, hold harmless and defend, the City and Port and their officers, agents and employees, against any and all claims, judgments, losses, costs, damages, penalties, fines or liabilities of whatever kind (collectively "Claims") arising in any manner out of (i) any injury to or death of any person or damage to or destruction of any property occurring in, on, under or about the Permit Area, or any part thereof, whether to the person or property

of Permittee, its employees, agents, consultants, contractors, or subcontractors (collectively "Agents"), or third persons, resulting from any use or activity of Permittee or its Agents under this Permit, (ii) any failure by Permittee to faithfully observe or perform any of the terms, covenants or conditions of this Permit, or (iii) the use of the Permit Area or any activities conducted thereon under this Permit by Permittee or its Agents; except only (1) to the extent of Claims resulting directly from the negligence or willful misconduct of City or Port or either's authorized representative, or (2) to the extent of claims resulting from damage to subsurface utilities caused without fault or negligence of Permittee or its Agents.

(b) Toxics Indemnity. Permittee agrees to indemnify, hold harmless and defend City and Port and their officers, agents and employees, from and against any and all claims, demands, actions, causes of actions or suit (actual or threatened), losses, costs, expenses, obligations, liabilities, or damages, including interest, penalties, engineering consultant and attorneys' fees of every kind, nature and description, (collectively "Toxics Claims") resulting from (i) any Release of a Hazardous Material to the extent that such Release is directly created or aggravated by the specific investigation activities undertaken by Permittee pursuant to this Permit, (ii) any handling of any Hazardous Material in soil or groundwater extracted from the Permit Area by Permittee in connection with the specific investigation activities undertaken by Permittee pursuant to this

Permit, or (iii) any breach of or failure to duly perform or observe any term, covenant or agreement in this Permit to be performed or observed by Permittee, including but not limited to, any violation of any Environmental Law; except only to the extent of Toxic Claims resulting directly from the negligence or willful misconduct of City or Port or either's authorized representative.

(c) The foregoing indemnity obligations in paragraph 9(a) and 9(b) shall include reasonable attorney's fees, investigation costs and all other reasonable costs and expenses incurred by City or Port from the first notice that any Claim or Toxics Claim is or may be made. The provisions of this paragraph shall survive termination of this Permit.

(d) In addition to Permittee's obligation to indemnify and hold harmless City and Port, Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend City and Port from any Claim or Toxics Claim which actually or potentially falls within the indemnification provisions of paragraph 9(a) or 9(b), even if the allegations are or may be groundless, false or fraudulent. Permittee's obligations to defend shall arise at the time such Claim or Toxics Claim is tendered to Permittee by City or Port and shall continue at all times thereafter.

(e) Nothing in this Section 9 or elsewhere in this Permit shall require Permittee to indemnify, hold harmless or defend City or Port or any of its commissions, departments, boards, officers, agents or employees from any Claims or Toxics Claims

arising out of (i) environmental conditions at or emanating from the Permit Area, including Releases of Hazardous Materials on, in, under or about the Permit Area, which were not directly created or aggravated by the specific investigation activities undertaken by Permittee pursuant to this Permit, or (ii) the disposal of Hazardous Materials removed from the Permit Area under a Hazardous Materials manifest executed by an authorized representative of Port.

Section 10. Limitation on Assignment. This Permit is personal to Permittee and shall not be assigned.

Section 11. Waiver of Liability. The Port shall not be liable for any damage to the property of Permittee, its officers, employees, agents, contractors or subcontractors, or their employees, or for any bodily injury or death to any such officer, employee, agent, contractor or subcontractor, or their employees, resulting or arising from the condition of the Permit Area or its use by Permittee with the exception of damage or injury caused directly by the active, willful or intentional misconduct of the Port, its officers, agents or employees.

Section 12. Removal of Equipment and Installations. Upon completion of activities on the Permit Area, Permittee shall remove all equipment and installations from the Permit Area.

Section 13. Insurance. During the term of this Permit, Permittee shall cause to be maintained in full force and effect at its own cost and expense at all times while Permitted Activities

are being conducted, insurance in the following amounts and coverages:

(a) Workers' Compensation, with Employers' Liability limits not less than $1,000,000 each accident.

(b) Comprehensive General Liability Insurance with limits not less than $2,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations, and $2,000,000 General Annual Aggregate Limit (other than Products-Completed Operations). The Comprehensive General Liability Insurance provided shall cover any property damage or personal injury resulting from any drilling or excavation conducted as part of the Permitted Activities. However, this provision shall not apply to claims relating to investigation or remediation of any environmental conditions on the Property.

(c) Comprehensive Automobile Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned and Non-owned and hired auto coverage, as applicable.

(d) Contractor's Pollution Legal Liability Insurance with combined single limit of $2,000,000 each claim, $2,000,000 aggregate, and with coverage to include legal liability arising from the sudden and accidental release of pollutants, and no less than a one-year extended reporting period.

(e) Comprehensive General Liability, Comprehensive Automobile Liability, and Contractor's Pollution Liability Insurance policies shall be endorsed to provide the following:

(1) That the City and County of San Francisco, the Port of San Francisco and their officers, agents, and employees are named as Additional Insureds; and

(2) That such policies are primary insurance to any other insurance available to the Additional Insureds with respect to any claims arising out of this Permit and that insurance applies separately to each insured against whom claim is made or suit is brought.

(f) All policies and certificates shall be endorsed to provide that no cancellation, major change of coverage, or expiration shall become effective or occur until at least 30 days after Permittee, its consultant or contractor, delivers and Port receive advance written notice as provided in Section 14 of this Permit. Permittee, upon notification of receipt by Port of any such notice, shall forthwith file with Port a certified copy of the required new or renewal policy or certificate for such policy. At the time of making any application for an extension of time, Permittee shall submit evidence that the policies will be in effect during the requested additional period of time.

(g) If at any time during the term of this Permit, Permittee, its consultants contractors or subcontractors, as the case may be, fails to maintain the required insurance in

full force and effect, all work under the Permit shall be discontinued immediately, and shall not resume until notice is received by Port that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to the Port. Failure to maintain the required insurance will be sufficient cause for immediate termination of the Permit notwithstanding the notice required under Section 4 of this Permit.

(h) Approval of insurance by Port shall not relieve or decrease the liability of Permittee, its consultant or contractors or subcontractors, hereunder.

(i) Certificates of insurance, in form and with insurers satisfactory to the City, evidencing all coverages above shall be furnished to the City before commencement of any operations under this Permit, with complete copies of policies to be furnished promptly upon City request.

Section 14. Notice. Any notices required to be given or which any party desires to give under the terms of this Permit shall be given by personal delivery, or by deposit with the United States Postal Service, certified mail, return receipt requested, and postage prepaid, addressed to the party to be served as follows:

To Port: Director, Facilities and Operations
Port of San Francisco
3100 Ferry Building
San Francisco, CA 94111

To Permittee: Frank L. Rollo
Treadwell & Rollo
555 Montgomery Street
San Francisco, California 94111

The Parties hereto may give notice pursuant to this section of other persons to receive future notices on their behalf. Notices herein shall be deemed given on the date of personal delivery or two (2) business days after the proper deposit of the same with the United States Postal Service.

Section 15. Miscellaneous. This Permit may be amended or modified only by a writing signed by each of the Parties hereto. No waiver by a Party of any of the provisions of this Permit shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. This Permit may be executed in one or more counterparts, each of which shall be an original but all of which together shall be deemed to constitute a single agreement. The paragraph headings of this Permit are for convenience of reference and shall be disregarded in the interpretation of this Permit.

Section 16. Condition of Property/Security. The Permit Area is accepted "as-is." Permittee shall keep its work sites in the Permit Area safe and secure, provided, however, that Permittee shall not be obligated to correct, repair or modify any pre-existing conditions of the Property.

Section 17. Waiver of Claims. Permittee hereby waives on behalf of itself and its heirs, successors, and assigns, any and

all rights which it may have to file a claim or bring an action of any kind or character against the City or its officers, agents, or employees, for damage to property or personal injury, including death, which might arise out of the use of the Property under this Permit, except only to the extent of Claims resulting directly from the negligence or willful misconduct of City or Port or either's authorized representative.

Section 18. Entry Under Permittee's Authority. This Permit to Enter granted to Permittee shall include all employees, agents, contractors, subcontractors and consultants of Permittee. Permittee assumes all responsibility for the safety of all persons and property on the Permit Area pursuant to this Permit. All work performed in the Permit Area and all persons entering this Permit Area and all property and equipment placed therein in furtherance of the permission granted herein is presumed to be with the express authorization of Permittee.

Section 19. Attorneys Fees. If the City or Port or Permittee commences an action against any other party to this Permit arising out of or in connection with this Permit, the prevailing party shall be entitled to recover from the losing party reasonable attorney's fees and cost of suit.

Section 20. Time is of the Essence. Time is of the essence as to each and every provision of this Agreement.

Section 21. California Law. This Agreement shall be construed and interpreted in accordance with the Laws of the State of California and City's Charter.

Section 22. Authority. If Permittee signs as a corporation or a partnership, each of the persons executing this Permit on behalf of Permittee does hereby covenant and warrant that Permittee is a duly authorized and existing entity, that Permittee has and is qualified to do business in California, that Permittee has full right and authority to execute this Permit and that each and all of the persons signing on behalf of Permittee are authorized to do so. Upon Port's request, Permittee shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties.

Section 23. Amendments. No amendment of this Permit or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

Section 24. Severability. Except as is otherwise specifically provided for in this Agreement, invalidation of any provision of this Agreement, or of its application to any person, by judgment or court order, shall not affect any other provision of this Agreement or its application to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as invalidated would be unreasonable or grossly

inequitable under all of the circumstances or would frustrate the purposes of this Agreement.

"PERMITTEE"

TREADWELL & ROLLO

By:_____

"PORT"

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation, acting
by and through the PORT OF
SAN FRANCISCO

By:_____

Approved As To Form:

LOUISE H. RENNE
City Attorney

By:_____
Deputy City Attorney

PERMIT TO ENTER PROPERTY IN CONNECTION WITH ENVIRONMENTAL INVESTIGATION

This Permit to Enter and Use Property (the "Permit") is entered into this _____ day of May, 1996, by and between the City and County of San Francisco ("City"), a municipal corporation acting through the San Francisco Port Commission ("Port"), and Geomatrix Consultants, Inc., a California corporation ("Permittee").

R E C I T A L S

This Permit is entered into on the basis of the following facts, understandings and intentions of the Parties:

A. Permittee desires to conduct a environmental study for a ballpark (the "Project") on certain Port property within the area commonly known as Pier 46B/Seawall Lot 336 (the "Property").

B. The Port desires to provide this Permit to assist Permittee in investigating the Property. The Port has no budgeted funds to assist Permittee in performing environmental investigations or in carrying out the Project.

C. This Permit does not commit the Port to issuance of any additional Permits to allow any person to carry out the Project when the environmental investigations are completed.

D. The Port and Permittee wish to set forth their understandings as they relate to Permittee's use of the Property for environmental investigation.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES, THE CITY, THE PORT AND PERMITTEE HEREBY AGREE AS FOLLOWS:

Section 1. Grant of Use. Port hereby grants to Permittee and its contractors and consultants a temporary, non-possessory, non-exclusive right to enter upon and use that certain real property owned by the Port, said property being more particularly shown on Exhibit "A" attached hereto ("Permit Area"). Permittee's use of the Permit Area shall be subject to the conditions and restrictions set forth in this Permit.

Section 2. Use of the Permit Area. Permittee shall use the Permit Area for the sole purpose of undertaking the environmental investigation activities described in the attached Exhibit "B" (the "Permitted Activities"). Any amendments or alterations to the Permitted Activities to be performed by the Permittee pursuant to this Permit must be approved in writing by Port prior to performance of the work.

Permittee shall provide the Port with copies of all boring logs, sample or laboratory test results promptly upon receipt and a copy of any reports prepared by Permittee documenting the results of the work conducted by Permittee pursuant to this Permit. If any soil investigation permitted hereby involves the drilling of holes having a diameter dimension that could create a safety hazard for persons, said holes shall, during any drilling operations, be carefully safeguarded and shall upon the completion of said drilling operations be refilled (and compacted to the extent necessary) to the level of the original surface penetrated by the

drilling. Any hole drilled shall, if not refilled and compacted at the end of each day's operations, be carefully safeguarded and secured after the completion of each day's work. Except for wells needed for subsequent monitoring or wells Port requests Permittee to leave in place, Permittee shall abandon any wells placed on the Permit Area in accordance with San Francisco Department of Public Health protocols.

Section 3. Conditions Precedent. Permittee's right to use the Permit Area is expressly subject to Permittee having provided satisfactory evidence of the insurances required pursuant to Section 13 of this Permit.

Upon issuance of this Permit, Permittee shall pay Port a fee of $_____ to compensate Port for costs associated with the issuance of the Permit and oversight of activities related thereto.

Section 4. Term of Permit. The rights granted pursuant to this Permit are temporary only and shall commence on May ___, 1996, and shall expire on the sooner of _____, 1996, or completion of the tasks described in Exhibit B. If Permittee fails to materially comply with the terms and conditions of this Permit and such failure is not cured by Permittee within five (5) days of notice by Port, or in the case of a non-compliance which cannot be cured within five (5) days, Permittee has not commenced and is not diligently pursuing the cure of said non-compliance, this Permit shall terminate and Permittee shall forthwith remove all equipment and installations from the Permit Area, and shall restore the

Permit Area to its former condition if the work has a material adverse effect on the Permit Area.

Section 5. No Interference With Use. Permittee shall not materially interfere with or obstruct Port's, Port Tenant's or Tenant's invitee's use of the Permit Area, or their conduct of normal business operations thereon. Work performed pursuant to this Permit must be conducted in or at a reasonable time and location acceptable to Port.

Permittee will take reasonable action to locate utilities that may be located in, on, under or about the Permit Area and protect the same from damage. Permittee will immediately notify Port of any damage to subsurface utilities.

Port shall provide Permittee with those records within its possession that are reasonably available to it concerning utilities located in, on, under or about the Permit Area. Port shall also make available to Permittee its records and employees to facilitate Permittee's location of utilities. Permittee acknowledges that Port does not have complete and accurate information concerning the location of utilities and does not have the resources to review all of the historical records within its possession which may contain information concerning the location of utilities.

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a. Definitions.

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handling, transportation, production, disposal, discharge or storage) or to health and safety, industrial hygiene or environmental conditions in, on, under or about the Permit Area, including, without limitation, soil, air, bay water and groundwater conditions.

(2) For purpose of this Permit, the term "Handle" or "Handling" means to use, generate, process, produce, package, treat, store, emit, discharge or dispose.

(3) For purpose of this Permit the term "Hazardous Material" shall mean any substance or material which has been determined by any state, federal, or local government authority to be a hazardous or toxic substance or material, including without limitation, any hazardous substance as defined in Section 101(14) of CERCLA (42 USC Section 9601(14)) or Sections 25281(f) or 25316 of the California Health and Safety Code, and any hazardous material as defined in Section 25501(k) of the California Health and Safety Code, and any additional substances or materials which at such time are classified or considered to be hazardous or toxic under any federal, state or local law, regulation or other exercise of governmental authority.

(4) For purposes of this Permit, the term "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of any Hazardous Material (including the abandonment or discarding of barrels,

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b. Compliance with Laws. All activities performed on the Permit Area by Permittee, its officers, agents, employees, contractors and subcontractors (collectively, "Agents") shall be done in a safe and reasonable manner, in accordance with all laws, regulations and orders of any governmental or other regulatory entity, and in such manner as not to cause or allow any Hazardous Material to contaminate soils or groundwater on, under or about the Permit Area. Before beginning any work in the Permit Area, Permittee shall obtain any and all permits, licenses and approvals of all regulatory agencies that are required to commence and complete the Permitted Activities.

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any and all Hazardous Materials are being handled in a manner which complies with all Environmental Laws.

d. Removal of Hazardous Materials. Prior to the termination of this Permit, Permittee, at its sole cost and expense, shall cause to be removed any and all Hazardous Materials extracted from or introduced in, on, under or about the Property by Permittee or its Agents. All costs of storage, shipping and disposal of extracted soils and groundwater shall be the responsibility of Permittee including, without limitation, the costs of preparation of shipping papers. Permittee will appropriately contain and label Hazardous Materials and non-hazardous materials and will promptly inform the Port that such action has been performed.

Permittee shall prepare a Hazardous Materials manifest utilizing Port's EPA identification number. Port agrees to provide an authorized representative to execute any Hazardous Materials manifest required by law. Permittee will consult with the Port concerning the treatment or disposal of Hazardous Materials. At Port's direction, Permittee will contract with Port selected transporter and Port selected disposal facilities for removal, transport and disposal of all Hazardous Materials required to be shipped with a Hazardous Materials manifest. Notwithstanding the foregoing, Permittee shall not be an owner, operator, generator, arranger, or transporter as defined by the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), or the Superfund Amendments and

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of Permittee, its employees, agents, consultants, contractors, or subcontractors (collectively "Agents"), or third persons, resulting from any use or activity of Permittee or its Agents under this Permit, (ii) any failure by Permittee to faithfully observe or perform any of the terms, covenants or conditions of this Permit, or (iii) the use of the Permit Area or any activities conducted thereon under this Permit by Permittee or its Agents; except only (1) to the extent of Claims resulting directly from the negligence or willful misconduct of City or Port or either's authorized representative, or (2) to the extent of claims resulting from damage to subsurface utilities caused without fault or negligence of Permittee or its Agents.

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Permit, or (iii) any breach of or failure to duly perform or observe any term, covenant or agreement in this Permit to be performed or observed by Permittee, including but not limited to, any violation of any Environmental Law; except only to the extent of Toxic Claims resulting directly from the negligence or willful misconduct of City or Port or either's authorized representative.

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(a) Workers' Compensation, with Employers' Liability limits not less than $1,000,000 each accident.

(b) Comprehensive General Liability Insurance with limits not less than $2,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations, and $2,000,000 General Annual Aggregate Limit (other than Products-Completed Operations). The Comprehensive General Liability Insurance provided shall cover any property damage or personal injury resulting from any drilling or excavation conducted as part of the Permitted Activities. However, this provision shall not apply to claims relating to investigation or remediation of any environmental conditions on the Property.

(c) Comprehensive Automobile Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned and Non-owned and hired auto coverage, as applicable.

(d) Contractor's Pollution Legal Liability Insurance with combined single limit of $2,000,000 each claim, $2,000,000 aggregate, and with coverage to include legal liability arising from the sudden and accidental release of pollutants, and no less than a one-year extended reporting period.

(e) Comprehensive General Liability, Comprehensive Automobile Liability, and Contractor's Pollution Liability Insurance policies shall be endorsed to provide the following:

(1) That the City and County of San Francisco, the Port of San Francisco and their officers, agents, and employees are named as Additional Insureds; and

(2) That such policies are primary insurance to any other insurance available to the Additional Insureds with respect to any claims arising out of this Permit and that insurance applies separately to each insured against whom claim is made or suit is brought.

(f) All policies and certificates shall be endorsed to provide that no cancellation, major change of coverage, or expiration shall become effective or occur until at least 30 days after Permittee, its consultant or contractor, delivers and Port receive advance written notice as provided in Section 14 of this Permit. Permittee, upon notification of receipt by Port of any such notice, shall forthwith file with Port a certified copy of the required new or renewal policy or certificate for such policy. At the time of making any application for an extension of time, Permittee shall submit evidence that the policies will be in effect during the requested additional period of time.

(g) If at any time during the term of this Permit, Permittee, its consultants contractors or subcontractors, as the case may be, fails to maintain the required insurance in

full force and effect, all work under the Permit shall be discontinued immediately, and shall not resume until notice is received by Port that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to the Port. Failure to maintain the required insurance will be sufficient cause for immediate termination of the Permit notwithstanding the notice required under Section 4 of this Permit.

(h) Approval of insurance by Port shall not relieve or decrease the liability of Permittee, its consultant or contractors or subcontractors, hereunder.

(i) Certificates of insurance, in form and with insurers satisfactory to the City, evidencing all coverages above shall be furnished to the City before commencement of any operations under this Permit, with complete copies of policies to be furnished promptly upon City request.

Section 14. Notice. Any notices required to be given or which any party desires to give under the terms of this Permit shall be given by personal delivery, or by deposit with the United States Postal Service, certified mail, return receipt requested, and postage prepaid, addressed to the party to be served as follows:

To Port: Director, Facilities and Operations
Port of San Francisco
3100 Ferry Building
San Francisco, CA 94111

To Permittee: Tom Graf
Geomatrix Consultants, Inc.
100 Pine Street, 10th Floor
San Francisco, California 94111

The Parties hereto may give notice pursuant to this section of other persons to receive future notices on their behalf. Notices herein shall be deemed given on the date of personal delivery or two (2) business days after the proper deposit of the same with the United States Postal Service.

Section 15. Miscellaneous. This Permit may be amended or modified only by a writing signed by each of the Parties hereto. No waiver by a Party of any of the provisions of this Permit shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. This Permit may be executed in one or more counterparts, each of which shall be an original but all of which together shall be deemed to constitute a single agreement. The paragraph headings of this Permit are for convenience of reference and shall be disregarded in the interpretation of this Permit.

Section 16. Condition of Property/Security. The Permit Area is accepted "as-is." Permittee shall keep its work sites in the Permit Area safe and secure, provided, however, that Permittee shall not be obligated to correct, repair or modify any pre-existing conditions of the Property.

Section 17. Waiver of Claims. Permittee hereby waives on behalf of itself and its heirs, successors, and assigns, any and

all rights which it may have to file a claim or bring an action of any kind or character against the City or its officers, agents, or employees, for damage to property or personal injury, including death, which might arise out of the use of the Property under this Permit, except only to the extent of Claims resulting directly from the negligence or willful misconduct of City or Port or either's authorized representative.

Section 18. Entry Under Permittee's Authority. This Permit to Enter granted to Permittee shall include all employees, agents, contractors, subcontractors and consultants of Permittee. Permittee assumes all responsibility for the safety of all persons and property on the Permit Area pursuant to this Permit. All work performed in the Permit Area and all persons entering this Permit Area and all property and equipment placed therein in furtherance of the permission granted herein is presumed to be with the express authorization of Permittee.

Section 19. Attorneys Fees. If the City or Port or Permittee commences an action against any other party to this Permit arising out of or in connection with this Permit, the prevailing party shall be entitled to recover from the losing party reasonable attorney's fees and cost of suit.

Section 20. Time is of the Essence. Time is of the essence as to each and every provision of this Agreement.

Section 21. California Law. This Agreement shall be construed and interpreted in accordance with the Laws of the State of California and City's Charter.

Section 22. Authority. If Permittee signs as a corporation or a partnership, each of the persons executing this Permit on behalf of Permittee does hereby covenant and warrant that Permittee is a duly authorized and existing entity, that Permittee has and is qualified to do business in California, that Permittee has full right and authority to execute this Permit and that each and all of the persons signing on behalf of Permittee are authorized to do so. Upon Port's request, Permittee shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties.

Section 23. Amendments. No amendment of this Permit or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

Section 24. Severability. Except as is otherwise specifically provided for in this Agreement, invalidation of any provision of this Agreement, or of its application to any person, by judgment or court order, shall not affect any other provision of this Agreement or its application to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as invalidated would be unreasonable or grossly

inequitable under all of the circumstances or would frustrate the purposes of this Agreement.

"PERMITTEE"

GEOMATRIX CONSULTANTS, INC.

By:_____

"PORT"

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation, acting by and through the PORT OF SAN FRANCISCO

By:_____

Approved As To Form:

LOUISE H. RENNE
City Attorney

By:_____
Deputy City Attorney

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

May 6, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey
Executive Director DPB

SUBJECT: Construction Contract No. 2616, "Pier 35 Passenger Terminal Elevator / Escalator Project," Authorization to Advertise for Competitive Bids.

DIRECTOR'S RECOMMENDATION: Authorize Staff to Advertise for Bids for Contract No. 2616: "Pier 35 Passenger Terminal Elevator / Escalator Project."

This project must be built by the start of next year's cruise ship season, May 1, 1997. To meet this schedule the Port has prepared a solicitation and contract requiring the Contractor to prepare final construction documents, provide architectural and engineering services and perform the construction. This contract approach allows preparation of final contract documents and construction activities to overlap, thereby compressing the project schedule. The Port has prepared "Scope-of-Work" design development drawings and specifications for this project, which clearly delineate the Port's programmatic and design requirements.

The project scope of work consists of the following passenger path-of-travel and other enhancements to the Pier 35 Cruise Terminal:

1. Installation of two new escalators;

2. Installation of a new passenger elevator;

3. Installation of modifications and additions to the existing fire suppression systems;

THIS PRINT COVERS CALENDAR ITEM NO. 6A

agd-2616.cj

4. Installation of modifications and additions to the existing power, general & emergency lighting systems; and

5. Installation of architectural finishes, new exit stair, doors and windows along the passenger path-of-travel.

This project will be funded by the Port. The estimated cost of the contract is approximately $800,000 to $1,000,000.

Staff will require that contractors bidding on the work make good faith efforts to meet the Human Rights Commission's MBE/WBE goals, as stated in the contract documents.

Staff recommends that the Commission authorize Staff to advertise for competitive contract bids for this work.

Prepared by: Cliff Jarrard
Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-43**

WHEREAS, the contract documents for Contract 2616 are ready for advertising for competitive bids; and

WHEREAS, the work consists of furnishing all labor, equipment and materials, and performing all the incidental work necessary to prepare final construction documents and construct the Pier 35 Passenger Terminal Elevator/Escalator Project; and

WHEREAS, the project will be funded by the Port; now, therefore be it

RESOLVED, that the San Francisco Port Commission hereby authorizes staff to advertise for competitive bids for Construction Contract No. 2616 "Pier 35 Passenger Terminal Elevator/Escalator Project," at an estimated cost of $800,000 to $1,000,000.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 14, 1996

_____
Secretary

agd-2616.cj

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM
May 1, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval for the Executive Director to apply for $2.4 million in Section 1064, Ferry Boat Discretionary Funds, from the Federal Highway Administration (FHWA) for the Downtown Ferry Terminal Project

DIRECTOR'S RECOMMENDATION: APPROVE APPLICATION

Under the provisions of Section 1064 of the Intermodal Surface Transportation Efficiency Act (ISTEA) 1991, Caltrans and the Federal Highway Administration (FHWA) have requested submission of ferry boat and terminal related grant projects for fiscal year 1997. Eligible projects range from the construction of ferry boats to provision of terminal facilities. Applications will compete on a nationwide basis for $18 million. Priority considerations will be given to candidate projects which will be ready for construction authorization by September 1, 1997.

Port Engineering and the ROMA Design Group are in the final stages of completing a construction bid for the Downtown Ferry Terminal project. As part of the project, the ferry operators have expressed a need for a breakwater along the south and east edges of the project to create a protected harbor for landing ferry and excursion vessels. Port staff is proposing a grant application for a portion of the breakwater costs, $2.4 million. All necessary environmental review and permitting should be secured by fall 1996. Authorization to expend funds and construction bid documents should be ready for Commission authorization in December.

Section 1064 grants require a 20% local match. The Downtown Ferry Terminal project is being funded primarily from State Bond funds ($8.5 million), Clean Air and Transportation Improvement fund, which qualifies as the match.

Prepared by: Sharon Lee Polledri, Director of Planning & Development

THIS PRINT COVERS CALENDAR ITEM NO. 7A

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-42**

WHEREAS, Under the City and County of San Francisco Charter Section 3.581, the Port of San Francisco has the authority to apply for, accept and, after environmental certification and all necessary permits are obtained, expend Ferry Boat Discretionary money. Additionally, the Port of San Francisco has the financial capability to complete the Downtown Ferry Terminal project; and

WHEREAS, Caltrans and the Federal Highway Administration have solicited grant applications for Section 1064, Ferry Boat Discretionary Funds, for Fiscal Year 1997; and

WHEREAS, Ferry Boat Discretionary Funds may be used to support the ferry and excursion industry in the United States and on San Francisco Bay; and

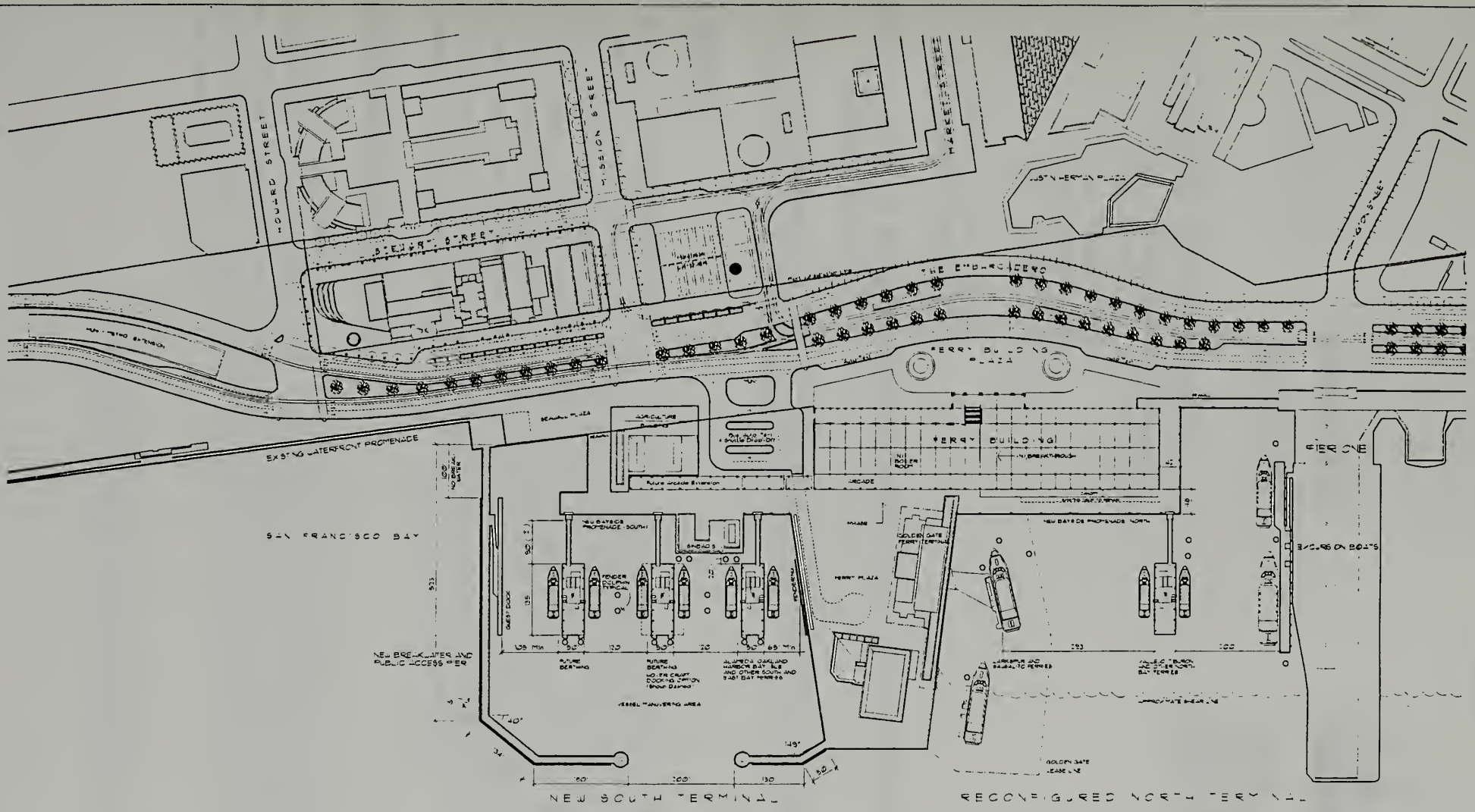
WHEREAS, the Port of San Francisco, in an effort to encourage more ridership on all forms of water transit and support the goals and objectives of the *Draft Waterfront Plan*, desires to improve the Downtown Ferry Terminal at the foot of Market Street; now, therefore, be it

RESOLVED, the Port Commission hereby authorizes the Executive Director to apply and accept $2.4 million from the Ferry Boat Discretionary Fund (Section 1064) for the construction of a breakwater as part of the Downtown Ferry Terminal project; now, be it further

RESOLVED, the Port Commission acknowledges that before any expenditure of construction funds may be allowed, all necessary environmental reviews and permits must be secured.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 6, 1996.

_____
Secretary



DOWNTOWN FERRY TERMINAL
PORT OF SAN FRANCISCO

ROMA

MID-EMBARCADERO ROADWAY
STUDY ALTERNATE 1

PORT OF SAN FRANCISCO

MEMORANDUM

April 30, 1996

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

TO: MEMBERS, PORT COMMISSION
Hon. Mike Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Francis J. O'Neill

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Lease Termination Agreements with Patrick Davis and Barbe Seafoods, Inc. at Pier 28

DIRECTOR'S RECOMMENDATION: APPROVE LEASE TERMINATION AGREEMENTS WITH PATRICK DAVIS AND BARBE SEAFOODS, INC.

BACKGROUND

Patrick Davis (L-11669) and Barbe Seafoods, Inc. (L-11675) are two commercial fish processors located at Pier 28. Ports Seafoods, Inc. (dba The Fresh Fish Company) is acquiring both entities. Patrick Davis' lease of 4,800 square feet of shed space and 2,400 square feet of stringer space at $2,297.27 per month expires November 30, 1996. Barbe Seafoods' lease of 4,800 square feet of shed and 600 square feet of stringer at $1,664.64 per month expires January 27, 1997. Combined the companies lease 9,600 square feet of shed and 3,000 square feet of stringer at $3,961.91 per month. Ports Seafoods, Inc. desires a new five-year lease for 12,000 square feet of shed and 2,400 square feet of stringer at rates within Port Commission approved parameters.

PROPOSED TERMINATION TERMS

The early termination agreements are conditioned upon the Port entering into a new lease with Ports Seafoods, Inc. and the new lease will be contingent upon the co-termination of the existing two leases. The new lease is effective July 1, 1996 and the termination of Barbe Seafoods lease is effective June 30, 1996. Patrick Davis will pay the Port a $7,500 fee for an effective termination date of April 30, 1996.

THIS PRINT COVERS CALENDAR ITEM NO. 9A

SUMMARY

The proposed lease termination agreements with Patrick Davis and Barbe Seafoods, Inc. coupled with the proposed new lease with Ports Seafoods, Inc. will strengthen the Port's financial position and enhance the Port's fish processing industry.

Prepared by: Frederick D. White, Director
Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-44

WHEREAS, Charter Section 3.581 grants to the Port Commission the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, Ports Seafoods, Inc. desires to lease 12,000 square feet of shed space and 2,400 square feet of stringer space at Pier 28; and

WHEREAS, The space at Pier 28 proposed to be occupied by Ports Seafoods, Inc. is now occupied by Barbe Seafoods, Inc. and Patrick Davis, both of whom Ports Seafood, Inc. is acquiring; and

WHEREAS, The Port Commission has determined that it is in the Port's best interest to terminate the Lease No. L-11675 with Barbe Seafoods, Inc. and Lease No. L-11669 with Patrick Davis; now therefore, be it

RESOLVED, That the San Francisco Port Commission hereby approves terminating Lease No. L-11675 with Barbe Seafoods, Inc. and Lease No. L-11669 with Patrick Davis on the terms and conditions outlined in the Memorandum attached hereto in such form as is approved by the City Attorney; and be it further

RESOLVED, That the effectiveness of the termination of the leases between Barbe Seafoods, Inc. and Patrick Davis be conditioned upon the Port entering into a new lease with Ports Seafoods, Inc. for space in Pier 28 including the space occupied by Barbe Seafoods, Inc. and Patrick Davis on terms and conditions consistent with Port Commission approved policies and rent parameters, and in such form as is approved by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 14, 1996.

_____
Secretary

G:\WP51\AGENDAS\PIER28.MEM\ibn\ May 7, 1996

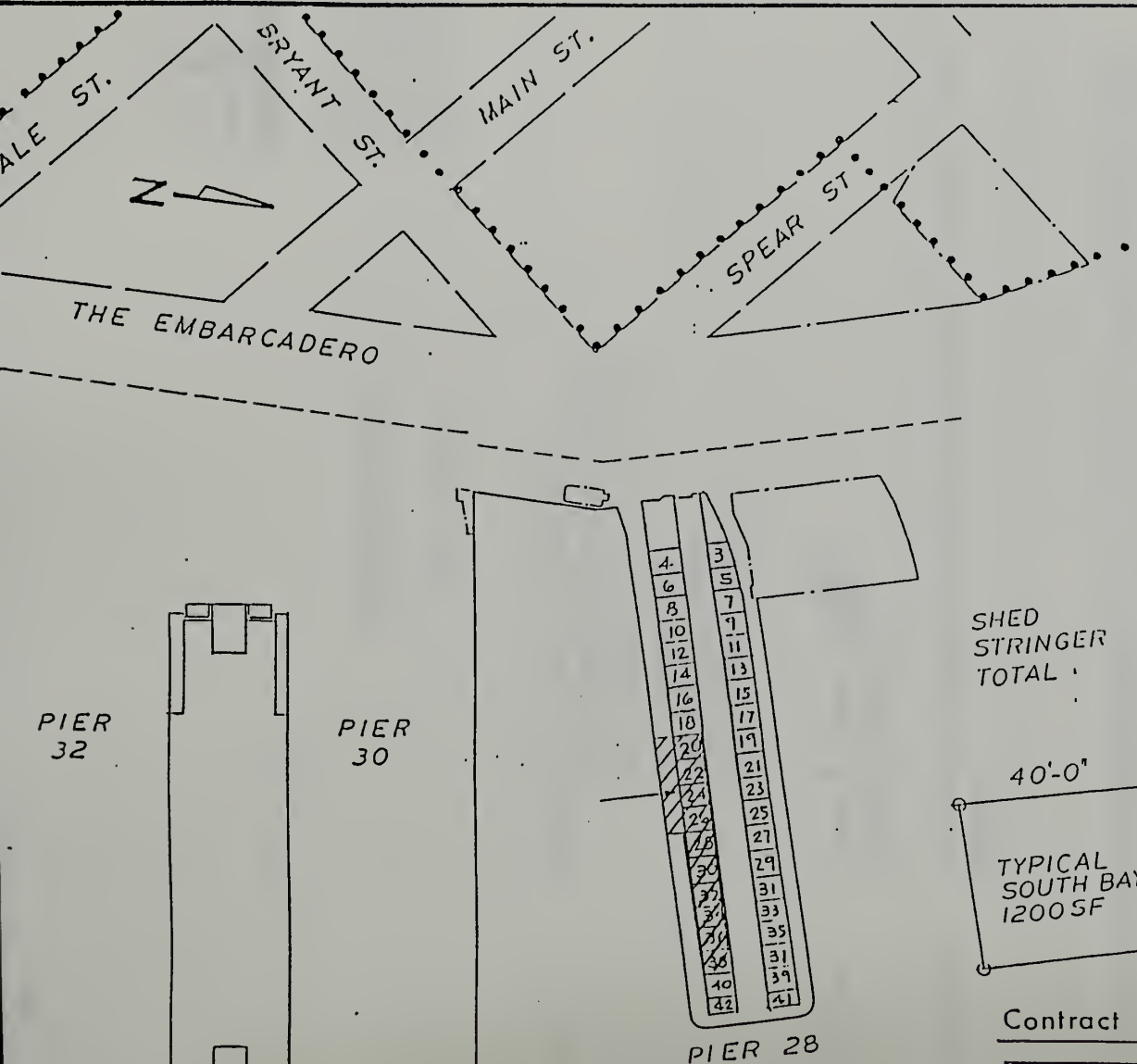
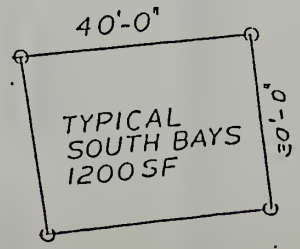


EXHIBIT A

INITIALS: Port____ Tenant____

SHED 12000 SF
STRINGER 2400 SF
TOTAL 14400 SF



Contract No.

APPROVED BY
SAN FRANCISCO PORT COMMISSION
DATE_____
CHIEF ENGINEER

NO.	DATE	DESCRIPTION

REVISIONS

PORT OF SAN FRANCISCO
SAN FRANCISCO PORT COMMISSION
DEPARTMENT OF ENGINEERING

PORTS
SEAFOODS

IN CHARGE OF	CHECKED BY
MADE BY	DATE
TRACED BY	SCALE

DRAWING NO. 1280-00018

SHEET NO.

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

May 7, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Francis J. O'Neill

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Lease Termination Agreement with Lusamerica Foods, Inc. at Pier 45.

DIRECTOR'S RECOMMENDATION: APPROVE LEASE TERMINATION AGREEMENT

On May 1, 1995, Lusamerica Foods Inc. ("Lusamerica") and the Port entered into Port Lease No. L-11978 (the "Lusamerica Lease") for 4,608 square feet of shed space and 2,552 square feet of apron space in Pier 45, Shed B for commercial seafood processing and receiving. The Lusamerica Lease has a term of ten years, expiring on April 30, 2005. The monthly rent is currently $2,456.40.

Lusamerica is reorganizing its Northern California processing operations and no longer requires its processing facility at Pier 45. Lusamerica has agreed to sell its facilities and operations at Pier 45 to Caito Fisheries, Inc. ("Caito") and has requested that the Port terminate the Lusamerica Lease. The Lusamerica Lease does include an early termination option, but the deadline for exercising this option has expired.

THIS PRINT COVERS CALENDAR ITEM NO. 9B

Pursuant to Port Lease L-11979 (the"Caito Lease"), Caito leases the space at Pier 45 adjacent to the premises demised in the Lusamerica Lease ("the Expansion Space"). The lease term and the rental rates under the Caito Lease are similar to those of the Lusamerica Lease. Caito desires to expand into the Expansion Space, and Caito has signed an amendment to the Caito Lease incorporating the Expansion Space effective immediately upon the termination of the Lusamerica Lease. The additional rent to be paid by Caito for the Expansion Space is identical to that paid by Lusamerica. All other terms and conditions for the Expansion Space of the Caito Lease will be unchanged.

Lusamerica has executed a Lease Termination Agreement for the Lusamerica Lease, which will be effective after the Port Commission's approval of the lease termination. The form of the Lease Termination Agreement has been approved by the City Attorney's Office.

Prepared by: Frederick D. White, Director, Tenant and Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-45

WHEREAS, Charter Section 3.581 grants to the Port Commission the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, Lusamerica Foods, Inc. ("Lusamerica") wishes to terminate Port Lease No. L-11978 for space at Pier 45, Shed B; and

WHEREAS, Lusamerica has agreed to sell its Pier 45 operations to Caito Fisheries, Inc., ("Caito");

WHEREAS, Caito leases an adjacent facility at Pier 45 and has agreed to amend its lease to add the adjacent premises demised in Lease No. L-11978 upon termination of said lease; now, therefore, be it

RESOLVED, That the San Francisco Port Commission hereby approves the termination of Port Lease No. L-11978 with Lusamerica on the terms and conditions outlined in the Memorandum attached to Agenda Item No. 9B for the May 14, 1996 Commission meeting.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 14, 1996.

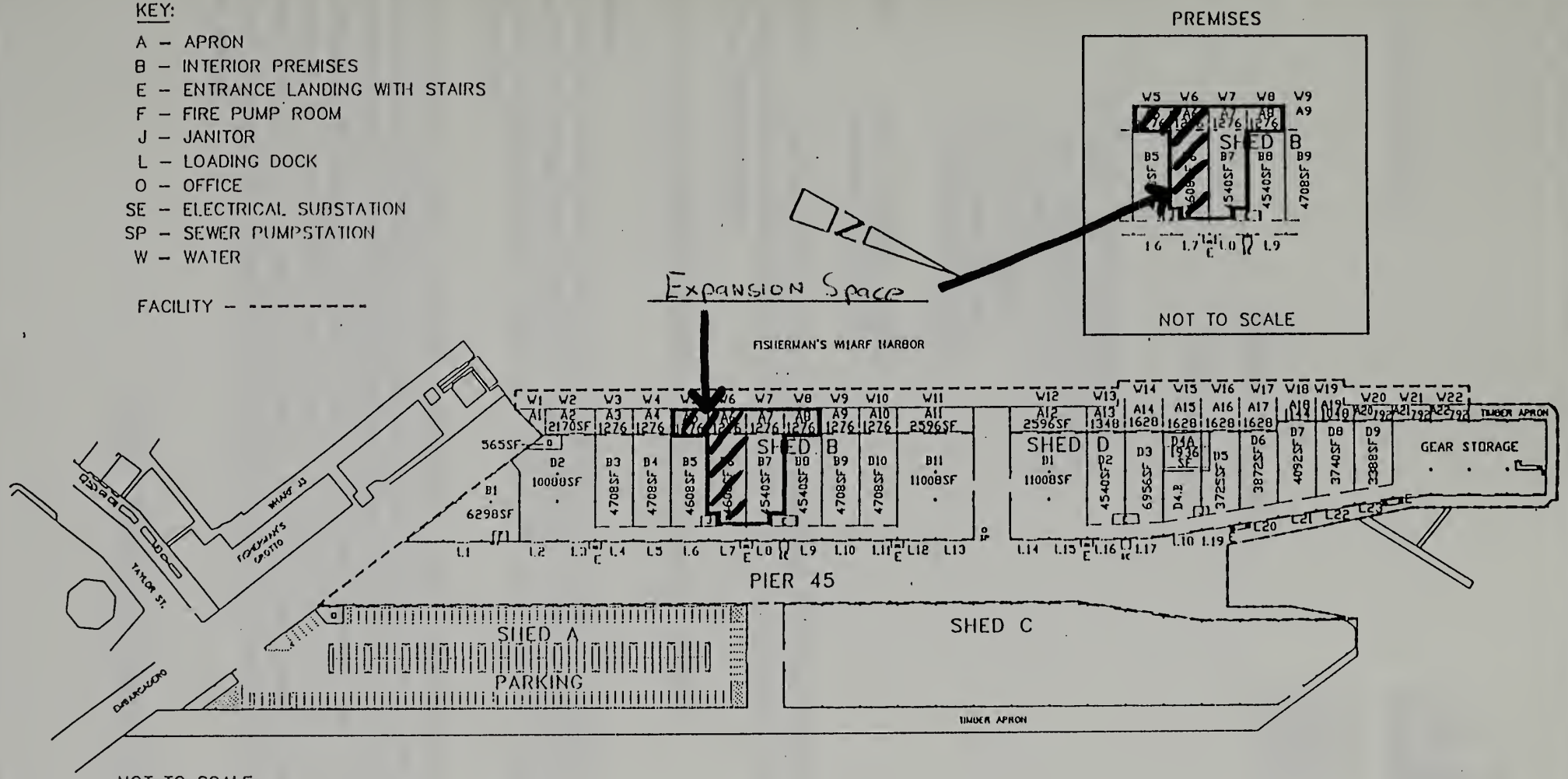
_____
Secretary

agd-2608.cj

KEY:

A – APRON
B – INTERIOR PREMISES
E – ENTRANCE LANDING WITH STAIRS
F – FIRE PUMP ROOM
J – JANITOR
L – LOADING DOCK
O – OFFICE
SE – ELECTRICAL SUBSTATION
SP – SEWER PUMPSTATION
W – WATER

FACILITY – ---------



SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO	EXHIBIT A THE FACILITY and PREMISES	CAITO FISHERIES, INC. SEAFOOD CENTER PIER 45, SHED B	FACILITY No. 1045 LEASE No. L--11979 DATE: MAY 1, 1996

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

May 14, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Francis J. O'Neill

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of travel for one Port representative to attend the 1996 National Transportation Enhancements Conference in Washington, D.C., in accordance with the Port's Fiscal Year 1995/96 budget

DIRECTOR'S RECOMMENDATION: Approve the attached resolution.

Background

Over the past several years, the Port has applied for and received funding from the Transportation Enhancement Activities ("TEA") program, which is part of the federal transportation funding program known as ISTEA ("Intermodal Surface Transportation Efficiency Act").

The Port has received nearly $3.0 million in funding for several projects from this program. including the Ferry Building Renovation Project, the Ferry Building Central Concourse, Pier 47A and the Fisherman's Wharf Triangle gateway project The Ferry Building projects have been recognized as outstanding examples of successful projects funded by the TEA program. For example, the Ferry Building was featured in the publication "Building on the Past. Traveling to the Future: A Preservationist's Guide to the ISTEA Transportation Enhancement Provision", published by the National Trust for Historic Preservation and the Federal Highway Administration.

PRINT COVERS CALENDAR ITEM NO. 9C

The 1996 National Transportation Enhancements Conference is being held in Washington, D.C. on June 9-11, 1996. The Ferry Building Project will be a featured project at the conference, and Project Manager Paul Osmundson has been asked to sit on a panel at the conference to discuss urban economic development issues. The staff believes that this is an excellent opportunity to expose the project to a national audience, and to further promote the project as a viable and attractive recipient of additional federal funding.

The conference is being sponsored by the Federal Highway Administration and other groups. While in Washington, D.C., Mr. Osmundson will also meet with Federal Highway Administration and U.S. Department of Transportation representatives to discuss other federal funding opportunities for the Ferry Building Renovation Project.

The following amounts have been budgeted in the current fiscal year to cover this activity:

Type of Expenditure	**Amount**
Airfare	$ 400
Ground Transportation	$ 100
Registration Fee (waived)	$ 0
Hotel (3 nights)	$ 510
Meals ($40/day X 3 days)	$ 120
Total	$1,130

Prepared by: Sharon Lee Polledri,
Director of Planning and Development

SLP/fj/H: Agd2.5-16

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-46**

WHEREAS, the Executive Director is requesting authorization for one Port representative to attend and speak at the 1996 National Transportation Enhancements Conference in Washington, D.C. on June 9-11, 1996; and

WHEREAS, the cost of this travel has been included in the Port Commission's Fiscal Year 1995/96 budget; now, therefore be it

RESOLVED, that the Port Commission hereby approves this travel request.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of May 14, 1996.

_____
Secretary

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0523
Cable SFPORTCOMM
Writer

MEMORANDUM

May 7, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Travel for two Port representatives to attend the Norfolk Harborfest in Norfolk, VA, in accordance with the Port's Fiscal Year 1995-1996 Budget

DIRECTOR'S RECOMMENDATION: APPROVE ATTACHED RESOLUTION

The annual Norfolk Harborfest is one of the most successful waterfront festivals in the country. Annual attendance of this event exceeds 250,000 of both local and regional people, with a budget of $500,000. This harborfest will take place on June 6-9, 1996. The event includes live music, tugboat races, fishing demonstrations, children's areas, boat building competitions, and other water-oriented events.

Attendance to the harborfest will give insight into which events could be valuable for the Seafood/Waterfront Festival that the City, Port and waterfront community will be producing in 1997. The producers of the event have agreed to share all aspects of their operations including maritime events, land events, concessions, visiting ships and sponsorship.

The Executive Director seeks approval to have two Port representatives attend the harborfest. This request is in accordance with the Port Commission's Fiscal Year 1995/96 budget and the estimated cost of this trip is $3,000.

Prepared by: Carolyn Macmillan
Marketing Manager

THIS ITEM COVERS CALENDAR ITEM NO. 9D

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-47

WHEREAS, the Executive Director is requesting authorization for two Port representatives to travel to Norfolk, VA, to attend the Annual Norfolk Harborfest on June 6-9, 1996; and

WHEREAS, attendance to the harborfest will give insight into which events could be valuable for the Seafood/Waterfront Festival that the City, Port and waterfront community will be producing in 1997; and

WHEREAS, The producers of the event have agreed to share all aspects of their operations including maritime events, land events, concessions, visiting ships and sponsorship; and

WHEREAS, the cost of this trip has been included in the Port Commission's Fiscal Year 1995-1996 budget; now, therefore, be it

RESOLVED, that the Port Commission hereby approves this travel request.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of May 14, 1996.

_____
Secretary

SF
P55
#3
5/14/96

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

DOCUMENTS DEPT.
JUN 03 1996
SAN FRANCISCO
PUBLIC LIBRARY

MINUTES OF THE MEETING
MAY 14, 1996

1. ROLL CALL

The meeting was called to order by Commission President Hardeman at 4:10 p.m. The following Commissioners were present: Michael Hardeman, Frankie Lee, Preston Cook, Frank O'Neill and James Herman.

2. APPROVAL OF MINUTES - April 23, 1996

ACTION: Commissioner O'Neill moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

At 4:15 p.m., the Commission took a short recess to wait for the Mayor's arrival. The Mayor arrived at 4:32 p.m.

3. SPECIAL ITEM

A. Mayor's Address to the Commission

Mayor Brown stated that he wants to avail himself of the opportunity, before too long, to get to all the Commissions and Boards of the City and County of San Francisco, particularly those who have entrepreneur aspects to their systems. He emphasized that the Port of San Francisco is a vital part of the City.

He stated that during the course of the economic summit, the Port was mentioned consistently. The economic activities that currently exist on the Port are vital to the City and County of San Francisco's economy. He believes that in previous years, the Port has not been treated as a full member of the San Francisco governmental family and that would not be the case during his administration.

He mentioned that the Executive Director and staff were kind enough to brief him on the waterfront plan. He was taken through the process and absorbed as much of it as he possibly could. He has been in touch with the Executive Director on more than one occasion about individual items existing in the Port's jurisdiction and the Executive Director has been very responsive. He related that the flavor the Executive Director has exhibited and that the cooperation he exhibits will hopefully convince the City that this is one governmental operation and that the City and County of San Francisco and its constituent agencies are inter-dependent upon each other. The Port and the Airport are the two luminaries in any governmental structure in San Francisco that can consistently carry their own weight without any assistance from the general fund and, on many occasions, a great assistance to the general fund.

The Mayor related that the Executive Director has indicated that during the first year of his administration, he faced a huge deficit but managed it to under a million dollars. In the subsequent year, he has moved that figure up and this year that figure is on the positive side. With greater cooperation by the City and County of San Francisco and all its constituency units, whether it be Redevelopment Agency or Planning Department, that process can be improved upon.

He also mentioned that the Executive Director also spoke about the need for some attention to the public transit process that is engaged in the waterfront area and how some cooperation between Muni and the Port would reflect itself for the benefit of the economy of San Francisco and particularly for the respective governmental entities. The Mayor stated that he intends to follow through to make sure this happens. He also emphasized having a regular, on-going working relationship with the Port in terms of the Mayor's office so that there can be sensitivity and immediate response. He does not want to have a "them" and "us" process which has been part of what's plagued City government. He wants to create an environment of openness and cooperation. He has been visiting individual entities on the waterfront since he was elected. He has been in awe of the waterfront and on a weekly basis has observed the dramatic improvement in the aesthetics of the waterfront by virtue of the implementation of all the improvements on the Embarcadero. He can hardly wait for the F-Line to complete its tour. He knows that the waterfront will be the number one place of destination for people who visits San Francisco. He also noted his conversations with Rudy Nothenberg, Dennis Bouey and Stuart Sunshine on the prospects for the Kirkland garage now being used by Muni and the prospect for that storage facility. This represents a dialogue that needs to take place with those two properties; properly managed under the Commission's direction and properly inter-related and integrated with the rest of the improvements of the waterfront could pay enormous dividends for the City and County of San Francisco and improve the revenue stream for Muni. There are golden opportunities that we should collectively avail ourselves.

In closing the Mayor reiterated that the Port is a part of the City government, part of his administration and will be referring to it often and taking full credit for its achievements but not without an offer to be responsive to facilitate the opportunity to be as productive or more productive than it currently is. He thanked the Commission for the opportunity to make a brief appearance and didn't want the Commission to go much longer thinking that the Mayor and the Mayor's office were not interested in what the Port is doing nor in contact. He cited that the Port is the first unit of government that he had direct contact with when his party was held in one of the Port's facilities. He reiterated that he would like to have an ongoing working relationship with the Port and the Mayor's office. He added that he will promptly fill vacancies as they become due on the Commission or reappoint, in some cases, so that the Port will have a full complement of persons to participate in the Port's deliberations. He will be available for any consultation the Port needs. Stuart Sunshine has part of the responsibility for coordinating with the Port. Wendy Linka has some of the responsibility because of the nature and partnership that San Francisco has with the business community. He is also in the process of organizing the International Trade Office and will have further conversations with the Executive

Director because it cannot be a successful San Francisco International Trade Office without the serious involvement of the Port of San Francisco. He again thanked the Commission for the opportunity to appear before them.

Commissioner Hardeman thanked the Mayor for appearing before the Commission. He mentioned that the Commission will not be an obstacle into any direction that the Mayor may have and that he's welcome to the Port any time.

4. EXECUTIVE

A. Executive Director's Report

1) Annual Whaleboat Race - will be held May 15, the races start at 10:30; with the final heat around 12 noon.

2) Hyde Street Pier Draft EIR is now available. The public hearing for the EIR will be heard at the Planning Commission on June 6. The proposed Hyde Street fishing harbor is a 60 berth harbor for commercial fishing boats located at the foot of Taylor Street. The Port has secured most of the funding of the project.

He mentioned that the draft EIR is now being circulated for public review and comment. He then made additional comments. Sheds B & D, opened last fall, are almost full. Subsequently, a Citizens Advisory Committee has been established to determine the uses of Sheds A & C. This group is comprised of fish processors, tenants, fishermen, and representatives of the community organizations involved in the area. Pier 45 as well as the harbor were included in order to do the EIR. He dispelled the rumors that some people thought that this was an attempt to go back to an earlier plan prepared by a consultant. Staff is awaiting for the Pier 45 Advisory Group's recommendations before deciding what needs to be done for Sheds A & C.

5. TENANT & MARITIME SERVICES

A. Approval for the Executive Director to Enter into Entry Permits with Geomatrix and Treadwell & Rollo for Environmental and Geotechnical Investigations and Indemnity Agreement with China Basin Ballpark Company ("Giants") (Resolution No. 96-48)

Mr. Bouey mentioned that this is the first step in furthering the soon-to-start negotiations with the Giants. A dialogue has commenced to set up a structure for the negotiations. One of the first and necessary elements is to determine how suitable the site is for the project. Through our knowledge of past uses of the site, it most likely contains hazardous materials. The long range solution to the hazardous material problem will be handled by the Giants and through the negotiation process, a rent credit formula will be worked out to reimburse them for money that they put forward to remediate the problem. The Giants have been very generous; they have agreed to start this exploration and investigation in order to move the project along and have agreed to assume significant amount of the exposure. Staff proposes that the Commission approve the attached permits which provide that the Giants share 50

percent of the cost on the first $100,000 and 75 percent of the next $600,000. This represents a contribution, if the project should not go forward, of $500,000 by the Giants to assist the Port in addressing a Port problem.

ACTION: Commissioner O'Neill moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

6. FACILITIES & OPERATIONS

A. Authorization to advertise for competitive bids for Contract 2616, "Pier 35 Passenger Terminal Elevator/Escalator Project." (Resolution No. 96-43)

Mr. Bouey stated that Pier 35 is less than hospitable for those visiting our City. Through some economies and reprioritizing of projects, a certain amount of money has been set aside to make dramatic improvements to the facility. Staff requests permission to advertise for not only the design but for the construction of two new escalators and a new passenger elevator system as well as fire suppression system and the installation of modifications and additions to the existing power system. He stressed the importance of the project.

Commissioner Hardeman emphasized that along with the Commission's vote at the last meeting to amend the Passenger Services Act, this is a step in the right direction to bring more business to San Francisco.

ACTION: Commissioner Lee moved approval; Commissioner O'Neill seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

7. PLANNING & DEVELOPMENT

A. Approval of the Executive Director to apply and accept $2.4 million in Section 1064, Ferry Boat Discretionary Funds, from the Federal Highway Administration,(FHWA) for the Downtown Ferry Terminal project. (Resolution No. 96-42)

Mr. Bouey stated that two meetings ago there was a presentation on the downtown ferry terminal project. While staff believes it has enough money to construct the two barges, it does not have enough money to build the breakwater. The breakwater would allow the barges to be used on a greater frequency.

Commissioner O'Neill inquired if this breakwater will help us to get casual docking in that area. Mr. Bouey replied that it would be more likely to happen with the building of the breakwater than without.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

8. ADMINISTRATION

9. CONSENT CALENDAR

A. Approval of Lease Termination Agreements with Patrick Davis and Barbe Seafoods, Inc. at Pier 28 (Resolution No. 96-44)

B. Approval of Lease Termination Agreement with Lusamerica Foods, Inc. at Pier 45. (Resolution No. 96-45)

C. Approval of travel for one Port representative to attend the National Transportation Enhancements Conference in Washington, D.C., in accordance with the Port's FY 1995/96 budget. (Resolution No. 96-46)

D. Approval of travel for two Port representatives to attend the Norfolk Harborfest in Norfolk, VA, in accordance with the Port's FY 1995/96 budget. (Resolution No. 96-47)

ACTION: Commissioner Cook moved approval; Commissioner O'Neill seconded the motion. All of the Commissioners were in favor; items on the consent calendar were adopted.

10. NEW BUSINESS / PUBLIC COMMENT

Mr. Maury Polse, from Dixie Charters, thanked the Commission and the Executive Director for taking the time to form the committee to look into the tourboat operation. He read numerous comments from his logbook about his tourboat operation.

Camille Cook, cycle messenger World Championships, inquired if there is some kind of rule or law that precludes sleeping on City piers. Mr. Bouey replied that the Port Commission recently adopted rules and regulations for public open space and he believes that there are some comments contained therein with regard to sleeping but will have staff look into it. The Cycle Messenger World Championships 1996 will be held this Labor Day in San Francisco. It's an organization made of volunteers. She then requested permission to use one of the piers during the event.

Edward Mathias, San Francisco Bicycle Messenger, stated that they'd like to use the pier where Jeremiah O'Brien is docked at or Pier 34/36. They are looking for a place where they can put 1,000 people coming from all over the world. This event has been held in Berlin and Toronto. The race route has been approved by the City and endorsed by the Board of Supervisors. They are looking for a place where attendees to the event can camp for four days. They are willing to bring in portable potties, portable showers, provide security and pay for police if necessary. They also have insurance. Mr. Bouey suggested that he call and meet with Fred White, Director of Tenant and Maritime Services.

Commissioner O'Neill stated that the Commission and the public are invited to a Citizens Advisory Committee open meeting on Thursday, May 16, at the Southeast Community facility, 1800 Oakdale from 6:00 to 9:00 p.m.

Mr. Bouey mentioned that KFOG did a terrific job in last Saturday's KFOG Sky Concert. There were at least twice as many people in attendance this year than last year's. Everyone had a good time.

11. EXECUTIVE SESSION

At 5:05 p.m., the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following matters:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS

1) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

At 5:50 p.m., Commissioners Hardeman, Lee, O'Neill, Cook and Herman returned from executive session and convened in public session.

ACTION: Commissioner Lee moved approval to not disclose any information discussed in the executive session. Commissioner O'Neill seconded the motion. All of the Commissioners were in favor.

The meeting was adjourned at 5:52 p.m.

SAN FRANCISCO
PORT COMMISSION

REGULAR MEETING
4:00 P.M., TUESDAY, MAY 28, 1996
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

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AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - May 14, 1996

3. **EXECUTIVE**

   A. Executive Director's Report

   B. Approval of Naming Bayfront Promenade along the Embarcadero, "Herb Caen Way at Baghdad by the Bay" from the proposed China Basin ballpark to Fisherman's Wharf in honor of Mr. Herb Caen (Resolution No. 96-48)

   C. Approval of Policy for Non-Sportfishing Trips for Hire at Fisherman's Wharf Harbor. (Resolution No. 96-49)

4. **LEGISLATIVE**

5. **TENANT & MARITIME SERVICES**

6. **FACILITIES & OPERATIONS**

   A. Authorization to award Contract No. 2610, Pier 68 Shipyard Crane Improvements, to Rigging International. (Resolution No. 96-52)

7. **PLANNING & DEVELOPMENT**

   A. Approval of Release of Claims Provision in BCDC Permit No. 22-76, Amendment No. 29 Regarding Pier 43 Public Access. (Resolution No. 96-51)

8. **ADMINISTRATION**

9. **CONSENT CALENDAR**

   A. Approval of travel to New York City on May 29 thru June 5, 1996, for one Port representative to attend meetings of port, labor and public officials related to legislative proposals affecting the availability of disposal sites for dredged material not

suitable for aquatic disposal, in accordance with the Port's FY 1995/96 budget. (Resolution No. 96-50)

10. NEW BUSINESS / PUBLIC COMMENT

11. EXECUTIVE SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS

1) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

2) Application for Leave to Present a Late Claim - Joyce Levine, pursuant to California Government Code Section 54956.9(b)(1).

The City Attorney is of the opinion that based on existing facts and circumstances, discussion of existing and anticipated litigation matters in open session would prejudice the legal position of the Port. An executive session is specifically authorized under California Government Code Section 54956.9(b)(1)(c).

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. ADJOURNMENT

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary.

PORT OF SAN FRANCISCO

MEMORANDUM

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San Francisco, CA 94111
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Cable SFPORTCOMM
Writer

May 21, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James R. Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Naming Bayfront Promenade Along the Embarcadero, ***"Herb Caen Way at Baghdad by the Bay"*** from the Proposed New Ballpark to Fisherman's Wharf in Honor of Mr. Herb Caen.

On May 20, 1996, the San Francisco Board of Supervisors unanimously adopted a resolution urging the Mayor to urge the San Francisco Port Commission to name the promenade along the Embarcadero in honor of Mr. Herb Caen, a distinguished San Francisco journalist, Pulitzer Prize Winner, and cultural icon. On May 21, 1996, the Honorable Mayor Willie L. Brown signed Resolution No. 420-96.

As designated in the City and County of San Francisco's Resolution, the promenade to be named after Mr. Caen begins at the proposed new ballpark at China Basin, wrapping around the waterfront, to the Ferry Building and ends at Fisherman's Wharf.

The Port Commission has the authority to name streets and properties under its jurisdiction. Staff recommends naming the bayfront promenade under the Port's jurisdiction commencing from the proposed new ballpark at China Basin to Fisherman's Wharf in honor of Mr. Herb Caen. The bayfront promenade to be designated as ***"Herb Caen Way at Baghdad by the Bay"*** includes the area between the east edge of the Embarcadero and San Francisco Bay (see attached map).

The official street names of The Embarcadero or Jefferson Street will not change. Staff is contacting ten Port tenants with leasehold space in this area advising them of the proposed designation and clarifying that the Port Commission's action will not require a change of business address. If tenants express other unanticipated concerns related to this designation, staff will brief the Port Commission at the May 28, 1996 hearing.

Prepared by: Veronica Sanchez, Manager, Governmental Affairs

THIS PRINT COVERS CALENDAR ITEM NO. 3B

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-48

WHEREAS, On May 20, 1996, the Board of Supervisors of the City and Country of San Francisco unanimously enacted a resolution urging the Mayor to urge the San Francisco Port Commission to name the bayfront promenade along the Embarcadero between the proposed ballpark and Fisherman's Wharf in honor of Mr. Herb Caen, a distinguished journalist, Pulitzer Prize Winner, and devoted San Franciscan; and

WHEREAS, On May 21, 1996, the Honorable Willie L. Brown, Mayor of the City and County of San Francisco, signed Resolution No. 420- 96; and

WHEREAS, The San Francisco Port Commission joins the City and County of San Francisco in honoring the outstanding contributions of Mr. Herb Caen, a Pulitzer Prize journalist, historian and devoted San Franciscan. For fifty eight years, Mr. Caen's daily column has captured the spirit of San Francisco and has been a voice and conscience for our City; and

WHEREAS, The designation of a spectacular waterfront promenade wrapping around the gateway to San Francisco, is an appropriate tribute to Mr. Caen, commonly known as "Mr. San Francisco;" now, therefore, be it

RESOLVED, That the San Francisco Port Commission designates the bayfront promenade under its jurisdiction from the proposed ballpark at China Basin to Fisherman's Wharf as ***"Herb Caen Way at Baghdad by the Bay,"*** and be it further

RESOLVED, That the promenade designated as ***"Herb Caen Way at Baghdad by the Bay***, comprises the area between the east edge of the Embarcadero and San Francisco Bay and will not change the official street names of The Embarcadero or Jefferson Street."

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of May 28, 1996.

_____
Secretary

FILE NO. 6-96-72 RESOLUTION NO. 420-96

[Commending Herb Caen]

URGING THE MAYOR TO URGE THE PORT COMMISSION TO HONOR HERB CAEN BY NAMING THE BAY FRONT PROMENADE ALONG THE EMBARCADERO AFTER HERB CAEN.

WHEREAS, Herb Caen is a cultural icon and San Francisco's preeminent journalist, writing daily columns for the Chronicle since 1938; and

WHEREAS, Herb Caen, who turned 80 this year, received a special Pulitzer Prize award for his "extraordinary and continuing contribution as a voice and conscience of his city;" and

WHEREAS, Herb Caen coined the famous description of San Francisco, Baghdad by the Bay; and

WHEREAS, It is impossible to find one site in San Francisco that truly cries out "Herb Caen;" and

WHEREAS, The promenade along the Embarcadero, from the proposed new ballpark at China Basin to the grand Ferry Building at the foot of Market Street to Fisherman's Wharf, wraps around the entrance of San Francisco and this is truly Herb Caen's City; therefore, be it resolved

RESOLVED, That the Board of Supervisors of the City and County of San Francisco urge the Mayor to urge the Port Commission to honor Herb Caen by naming the bay front promenade along the Embarcadero after Herb Caen.

SUPERVISOR KEVIN SHELLEY
Kaufman, Yaki, Teng, Bierman, Kennedy, Alioto

BOARD OF SUPERVISORS

RECEIVED
MAY 22 1996

Adopted - Board of Supervisors, San Francisco May 20, 1996

Ayes: Supervisors Alioto Ammiano Bierman Kaufman Kennedy Shelley Teng Yaki

Absent: Supervisors Hsieh Leal

I hereby certify that the foregoing resolution was adopted by the Board of Supervisors of the City and County of San Francisco

Clerk

File No. 6-96-72

MAY 21 1996
Date Approved

Mayor

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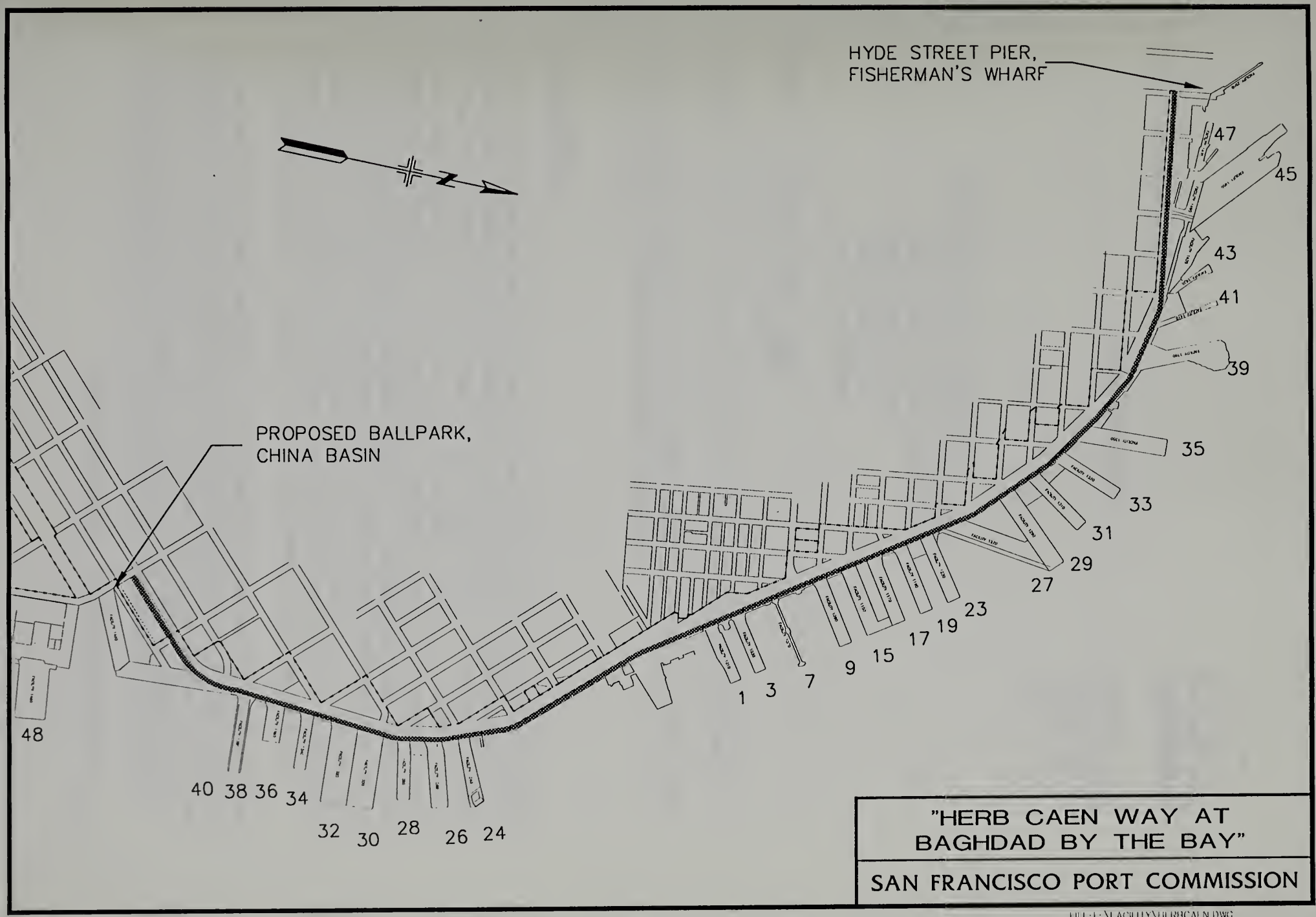
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SAN FRANCISCO PORT COMMISSION
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PORT OF SAN FRANCISCO

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Writer

MEMORANDUM

May 20, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Policy for Non-Sportfishing Trips for Hire at Fisherman's Wharf Harbor

DIRECTOR'S RECOMMENDATION: APPROVE POLICY FOR NON-SPORTFISHING TRIPS FOR HIRE AT FISHERMAN'S WHARF HARBOR

BACKGROUND

The Port of San Francisco manages public trust lands with a mandate that includes promoting fisheries uses. Consistent with this mandate, the Port's Tariff No. 4, dated March 1, 1994 (the "Tariff"), provides that Commercial Fishing Vessels, Historical Commercial Fishing Vessels, and Fishing Party Boats have priority berthing rights over Pleasure Boats at Fisherman's Wharf Harbor. A "Pleasure Boat" is defined as "one used by the owner (s) and/ or others for recreation fishing or pleasure riding." A "Fishing Party Boat" is defined as "one that is licensed by the United States Coast Guard to carry passengers for hire for sportfishing." No mention is made regarding non-sportfishing trips for hire by either Pleasure Boats or by Fishing Party Boats. The Tariff also provides that: "Solicitation, advertising and signs in the Fisherman's Wharf area, without a permit, are prohibited."

Over the past 25 years, there has been a downward trend in the number of Fishing Party Boats operating from Fisherman's Wharf Harbor, decreasing steadily from 37 boats in 1970, to 25 in 1980, to 17 in 1990, and to only 9 today. While increasing governmental restrictions on fishing seasons and catches have caused the total number of Fishing Party Boats to decline in the Bay Region during this period, the loss of Fishing Party Boats has been particularly

severe at Fisherman's Wharf Harbor. This Harbor has lost market share to East Bay marinas and to Pillar Point Harbor at Half Moon Bay, where the number of Fishing Party Boats have actually increased.

Fishing Party Boats at Fisherman's Wharf have historically conducted non-sportfishing trips for hire as an ancillary activity to supplement their income from sportfishing trips. Recently, a Commercial Fishing Vessel and a Historic Commercial Fishing Vessel commenced conducting scenic tours at Fisherman's Wharf Harbor. In addition, signs and other advertising materials regarding such tours were displayed on vessels and installed on Port property at Fisherman's Wharf.

Port staff believes that, in order to retain the remaining Fishing Party Boats and to expand the number of such boats at Fisherman's Wharf Harbor, Fishing Party Boats need to continue supplementing their income from sportfishing trips with that generated by other types of trips for hire. However, Port staff also believes that these trips, and the advertising and signage for such trips, must be conducted in such a manner so as not to detract from the character of the Fisherman's Wharf Harbor, and not to conflict with the Port's goal of revitalizing and expanding the fishing industry at Fisherman's Wharf.

PROPOSED POLICY

General Policy. Fisherman's Wharf Harbor is to be used by Commercial Fishing Vessels, Historic Commercial Fishing Vessels, and Fishing Party Boats as preferential, priority uses. No trips for hire shall be conducted from Fisherman's Wharf Harbor except by Fishing Party Boats. The Harbor is not to be used for berthing vessels, including Fishing Party Boats, whose primary business is conducting Non-Sportfishing Trips for hire.

Non-Sportfishing Trips for Hire from Fisherman's Wharf Harbor. A Fishing Party Boat may conduct Non-Sportfishing Trips for hire from Fisherman's Wharf Harbor ("Non-Sportfishing Trips"), provided that:

1. The vessel constitutes an Active Fishing Party Boat, defined as follows:

    a. The Fishing Party Boat makes sportfishing trips (as defined by the California Department of Fish and Game) on a minimum of 75 days per year (as evidenced by Skipper's Logs maintained for the California Department of Fish and Game), and the price per passenger for said sportfishing trips are not less than 75% of the prevailing prices for similar sportfishing trips from Fisherman's Wharf Harbor.

b. The vessel meets all of the following requirements of the indicated regulatory agencies ("Regulatory Requirements"):

1) U.S. Coast Guard

a) Certificate of Documentation, with a Coastwise Endorsement and a rating of at least 5 tons;

b) Master License to U.S. Merchant Marine Officer for captain;

c) Certificate of Participation in drug testing program for captain and deck hand(s); and

d) Certificate of Inspection (provided, however, a Certificate of Inspection shall not be required for a vessel which qualifies under the Tariff as an Historic Commercial Fishing Vessel and which operates under U.S. Coast Guard regulations that provide for a maximum of 6 passengers).

2) California Department of Fish and Game

a) Commercial Boat Registration;

b) Personal fishing license with applicable species endorsements; and

c) Skipper's Log Book, Marine Sportfishing Central and Northern California.

3) Federal Communications Commission

a) Ship/Aircraft Radio Station License;

b) Operator's permit; and

c) Trip radio log.

2. The primary activity of the Active Fishing Party Boat is conducting sportfishing trips as defined by the California Department of Fish and Game. Specifically, the number of days each year that the Fishing Party Boat conducts sportfishing trips must exceed the number of days that it conducts Non-Sportfishing Trips.

3. Non-Sportfishing Trips shall consist of trips lasting more than one (1) hour, and shall be limited to the following activities:

   a. Funerals/scattering ashes at sea;

   b. Nature/whale watching excursions;

   c. Wedding or other private parties;

   d. Business meetings; or

   e. Scenic bay tours.

4. Non-Sportfishing Trips shall be limited to:

   a. For a vessel with a U.S. Coast Guard Certificate of Inspection, a maximum of 30 passengers plus vessel crew; or

   b. For a vessel without a U.S. Coast Guard Certificate of Inspection, a maximum of 6 passengers (paying or non-paying) plus one vessel crew member.

5. Insurance. The vessel is insured with Protection and Indemnity (Watercraft Liability) Insurance for marine operations with a limit of not less than One Million Dollars ($1,000,000.00) each occurrence ("P&I Policy"). This policy shall comply with the Port's standard insurance requirements, including naming the City and Port, and their officers, agents and employees, as additional insureds.

Enforcement. Prior to conducting Non-Sportfishing Trips, the berth holder shall furnish the Fisherman's Wharf Harbor Master ("Harbor Master") with documentation evidencing compliance with the above Regulatory Requirements and insurance requirements. In addition, upon a minimum of 24 hours notice from the Harbor Master, the berth holder shall provide evidence to the Harbor Master that the berth holder has been in compliance with all provisions of this policy regarding Non-Sportfishing Trips during the shorter of either (1) the prior year, or (2) the period commencing upon the approval of this policy by the Port Commission. Such evidence shall include, but not be limited to:

1. Skipper's Log Book, maintained for the Department of Fish and Game; and

2. Trip monitor log, maintained for the Federal Communications Commission.

If in the judgement of the Harbor Master, the berth holder is not in compliance with this policy concerning Non-Sportfishing Trips, then the berth holder's occupancy at Fisherman's Wharf under its Application for Stall Space agreement shall terminate thirty (30) days after written notice. The berth holder shall have the right to appeal said termination to the Executive Director for the Port. In the event that the Executive Director confirms the decision to terminate the berth holder's occupancy, the Application for Stall Space agreement shall terminate in accordance with the termination notice.

Signs. Advertising and signs at Fisherman's Wharf Harbor relating to Fishing Party Boats shall be subject to the following policy:

1. No advertising or signs shall be located off of a vessel berthed at the Fisherman's Wharf Harbor unless the advertising or sign:

    a. Has been approved by a building permit issued by the Port; and

    b. Is limited to sportfishing trips.

2. No advertising and signs shall be located on a vessel berthed at Fisherman's Wharf Harbor unless the advertising or sign:

    a. Has been approved in advance by the Port; and

    b. Is professionally designed and fabricated.

    In addition, any such advertising or signs located on a vessel berthed at Fisherman's Wharf Harbor which refers to Non-Sportfishing Trips:

    a. Must be temporary, only being displayed at such times as the boat is actually available to then take such a trip;

    b. Shall be proportionate to the size of the boat, but shall not in any event exceed 27 sq. ft.; and

    c. Shall be situated so that the vessel is the background for the advertising or sign (i.e., it does not block views of other boats or the Harbor).

    In the event that the Port denies approval of a proposed sign or advertising on a vessel berthed at Fisherman's Wharf Harbor, the berth holder shall have the right to appeal said decision to the Executive Director of the Port.

Prepared by: Frederick D. White, Director, Tenant and Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-49**

WHEREAS, jurisdiction over the lands managed by the San Francisco Port Commission was transferred to the City and County of San Francisco pursuant to California Statutes, Chapter 1333, commonly known as the "Burton Act;" and

WHEREAS, the Burton Act mandates that said lands be managed to promote their use and development for trust purposes, and one of these trust purposes is fisheries; and

WHEREAS, City Charter Section 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, in order to protect, revitalize and expand the sportfishing industry at Fisherman's Wharf, to protect the character of Fisherman's Wharf Harbor, and to protect the public safety; now, therefore, be it

RESOLVED, that the Port Commission hereby approves the Policy for Non-Sportfishing Trips For Hire at Fisherman's Wharf Harbor as described in Agenda Item 3C for the May 28, 1996 Port Commission meeting.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 28, 1996.

_____
Secretary

I:\SPORTFI2.MEM\May 20, 1996

PORT OF SAN FRANCISCO

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MEMORANDUM
May 23, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. James Herman
Hon. Preston Cook
Hon. Francis J. O'Neill

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Contract 2610 - Pier 68 Shipyard Cranes Improvements

DIRECTOR'S RECOMMENDATION: AWARD CONTRACT FOR BASE BID ONLY TO THE LOWEST RESPONSIVE BIDDER, RIGGING INTERNATIONAL, INC., IN THE AMOUNT OF $ 1,621,260.00 AND AUTHORIZE STAFF TO APPROVE UP TO ANOTHER 10 % FOR CONTINGENCIES.

Resolution No. 96-25, approved by the Port Commission on March 26, 1996, authorized staff to advertise for bids for the partial demolition and salvage of one shipyard crane and improvements to as many as five other cranes at Pier 68. On May 17, 1996, two bids were received. Rigging International, Inc. submitted the lowest responsive bid of $4,222,888.00, which includes all base bid, deductive alternate, and unit price items. The published basis of award is the lowest sum total of all bid items. The bid summary is attached.

A total of $2,000,000 (comprised of a federal grant of $1,500,000, a state grant of $250,000 and Port matching funds of $250,000) are available for the design, construction, and administration of this contract. Because of the limited funding available, the contract to be awarded consists of only the base bid items, totaling $1,621,260.00. The base bid items include repairing and repainting one shipyard crane, partly salvaging another crane, improving the operator's cabs on five cranes, and lead and asbestos abatement work.

Rigging International, Inc. exceeded the 11% MBE and 2% WBE subcontracting goals for this contract and demonstrated a good faith effort to include MBE and WBE participation.

Prepared by: Cliff Jarrard
Chief Harbor Engineer

THIS PRINT COVERS CALENDAR ITEM NO. 6A

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-52

WHEREAS, the Port Commission directed its staff to solicit bids on Contract No. 2610, Pier 68 Shipyard Cranes Improvements; and

WHEREAS, bids were received and opened on May 17, 1996; and

WHEREAS, the Port Engineering Section, the San Francisco Human Rights Commission representative and the office of the City Attorney have reviewed the bids and determined that the bid of Rigging International, Inc. is the lowest responsive bid; and

WHEREAS, sufficient funding for the base bid items of this contract will be provided by the U.S. Department of Commerce Economic Development Administration Grant Award No. 07-49-04074 and California Trade and Commerce Agency Office of Strategic Technology Grant No. C94-0254, with Port matching funds; therefore, be it

RESOLVED, that the San Francisco Port Commission hereby approves the base bid item contract award, Contract No. 2610, Pier 68 Shipyard Cranes Improvements, to Rigging International, Inc. for $1,621,260 and a contingency amount equal to 10% of this bid to fund possible changes during the contract.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 28, 1996.

_____
Secretary

agd-2610.cj

BID SUMMARY
PORT OF SAN FRANCISCO

Prepared By: Marie Mitchell
Checked by: RL
Date: 05/23/96
Page of 1 of 3

Project: Pier 68 Shipyard Cranes Improvements
Contract No.: 2610 Project Engineer: Skip Zeller **Bids Opened:** 05/17/96

Bid Item #	Description	Estimated Quantity	Rigging International, Inc. 965 Atlantic Ave. Alameda, 94501 510-865-2400 Unit /LS Price	Total	Sheedy Drayage Co. 1215 Michigan S.F., CA 94107 415-648-7171 Unit /LS Price	Total	Unit /LS Price	Total	Unit /LS Price	Total	Unit /LS Price	Total
1A	Sequence steps A.1 and A.2 - Dismantle Crane #30 to the Turntable Level	LS	$275,000.00	$275,000.00	$34,422.00	$34,422.00						
1B	Sequence Step A.3 - Remove Asbestos from Crane #30	LS	$20,000.00	$20,000.00	$8,410.00	$8,410.00						
2A	Step B.1 - Remove Asbestos from Crane #32	LS	$20,000.00	$20,000.00	$8,410.00	$8,410.00						
2B	Steps B.10 and B.35 0 Nondestructive Testing of 100 Areas of Crane #32	LS	28,372.00	28,372.00	$5,220.00	$5,220.00						
2C	Steps B.2 - B.9, B.11 - B.34, and B.37 - B.45 repairs, Tests, and Certification of Crane 332	LS	$1,257,303.00	$1,257,303.00	$1,495,294.00	$1,495,294.00						
3A	Deductive Alternate Bid Item Step C.1 - Remove Asbestos from Crane #33	LS	$20,000.00	$20,000.00	$10,750.00	$10,750.00						
3B	Deductive Alternate Bid Item Steps c.4 and C.23 - Nondestructive Testing of 100 areas of Crane #33	LS	$18,734.00	$18,734.00	$4,500.00	$4,500.00						
3C	Deductive Alternate Bid Item Steps C.2., C.3, C.5 - C.22, and C.24 - C.30 Repairs, Tests, and Certification of Crane #33	LS	$707,641.00	$707,641.00	$1,054,216.00	$1,054,216.00						
4A	Deductive Alternate Bid Item Step D.1 - Remove Asbestos from Crane #34	LS	$20,000.00	$20,000.00	$10,750.00	$10,750.00						
4B	Deductive Alternate Bid Item Steps D.4 and D.22 - Nondestructive Testing of 100 Areas of Crane #34	LS	$18,734.00	$18,734.00	$4,500.00	$4,500.00						
4C	Deductive Alternate Bid Item Steps D.2, D.3. D.5 - D.21 and D.23 - D.30 Repairs, Tests, and Certification of Crane #34	LS	$690,066.00	$690,066.00	$1,020,430.00	$1,020,430.00						

BID SUMMARY
PORT OF SAN FRANCISCO

Prepared By: arie Mitchell
Checked by: RL
Date: 05/23/96
Page of 2 of 3

Project: Pier 68 Shipyard Cranes Improvements
Contract No.: 2610 Project Engineer: Skip Zeller **Bids Opened:** 05/17/96

			Rigging International, Inc. 965 Atlantic Ave. Alameda, CA 94501 510-865-2400		Sheedy Drayage Company 1215 Michigan S.F., CA 94107 415-648-7171							
Bid Item #	Description	Estimated Quantity	Unit /LS Price	Total	Unit /LS Price	Total	Unit /LS Price	Total	Unit /LS Price	Total	Unit /LS Price	Total
5	Replace Operator' Cab Seats Cranes #27 and #31 - #34	LS	$20,585.00	$20,585.00	$22,214.00	$22,214.00						
6A	Deductive Alternate Bid Item Step E.1 - Remove Asbestos From Crane #27	LS	$20,000.00	$20,000.00	$10,750.00	$10,750.00						
6B	Deductive Alternate Bid Item Steps E.4 and E22 - Nondestructive Testing of 100 Areas on Crane #27	LS	$18,734.00	$18,734.00	$4,500.00	$4,500.00						
6C	Deductive Alternate Bid Item Steps e.2, E.3, E.5 - E.21, and E.23 - E.30 Repairs, Tests, and Certification of Crane #27	LS	$452,337.00	$452,337.00	$713,028.00	$713,028.00						
7	Dedutive Alternate Bid Item Steps F.1 - F.5 Salvage, Demolition and Removal of Crane #30	LS	$36,469.00	$36,469.00	$40,203.00	$40,203.00						
8A	Deductive Alternate Bid Item Step G.1 Remove Asbestos From Crane #31	LS	$20,000.00	$20,000.00	$10,750.00	$10,750.00						
8B	Deductive Alternate Bid Item Steps G.4 and G.22 Nondestructive Testing of 100 Areas of Crane #31	LS	$18,734.00	$18,734.00	$4,500.00	$4,500.00						
8C	Deductive Alternate Bid Item Steps G.2., G.3, G.5 - G.21, and G.23 - G.30 Repairs, Tests and Certification of Crane #31	LS	$448,179.00	$448,179.00	$391,801.00	$391,801.00						
9	Unit Price Item: Repair of Welded Joints Per Joint	100	$800.00	$80,000.00	$150.00	$15,000.00						
10	Unit Price Item: Lead Paint Removal Per Square Foot	500	$60.00	$30,000.00	$73.50	$36,750.00						
11	Unit Price Item: Asbestos Matierals Removal Per 55 Gallon Drum	10	$200.00	$2,000.00	$950.00	$9,500.00						
	TOTAL			$4,222,888.00		$4,915,898.00						
	TOTAL BASE BID ONLY: Bid Items 1A, 1B, 2A, 2B, 2C, 5			$1,621,260.00		$1,573,970.00						

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BID SUMMARY
PORT OF SAN FRANCISCO

Prepared: Marie Mitchell
Checked by: RL
Date: 05/23/96

Project: Pier 68 Shipyard Cranes Improvements
Contract No.: 2610 Project Engineer: Skip Zeller

		Rigging International, Inc. 965 Atlantic Avenue Alameda, CA 94501 Phone #		Sheedy Drayage Co. 1215 Michigan Street S.F., CA 94107 Phone #							
Required Forms	Document #	Yes (Y)	No (N)	Yes (Y)	No (N)						
Proposal	00300	Y		Y							
Addenda Acknowledgment		Y		Y							
Schedule of Bid Prices	00302	Y		Y							
Schedule of Unit Prices	00304	Y		Y							
Bid Bond	00411	Y		Y							
Experience & Financial Qualifications	00420	Y		Y							
List of Subcontractors	00430	Y		Y							
Non-Collusion Certification	00481	Y		Y							
HRC Form 1		Y		Y							
HRC Schedule A (as applic, by 5pm)		N/A		N/A							
HRC Schedule L (as applic, by 5pm)		N/A		N/A							
HRC Form 2A		Y		Y							
HRC Form 2B		Y		Y							
Apprenticeship Program	00490	Y		Y							
Business Tax Reg Declaration	00491	Y		Y							
Highest General Prevailing Wage	00492	Y		Y							
Equal Opp Empl & Bus Practices: LD	00493	Y		Y							
MacBride Principles	00494	Y		Y							
Deemed Responsive by Engin & HRC (Y/N) ?		Y		N							
				M/WBE goals not met							
Total Bid ►		$4,222,888.00		$4,915,897.00							
PREFERENCES (as applicable):											
MBE	10%	0		0							
WBE	10%	0		0							
LBE	5%	0		0							
JV	5%	0		0							
JV	7.5%	0		0							
JV	10%	0		0							
Adjusted Bid ►		$4,222,888.00		$4,915,897.00							

PORT OF SAN FRANCISCO

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MEMORANDUM
May 22, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Francis J. O'Neill

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Release of Claims Provision in BCDC Permit No. 22-76, Amendment No. 29 Regarding Pier 43 Public Access

DIRECTOR'S RECOMMENDATION: APPROVE RELEASE OF CLAIMS PROVISION IN BCDC PERMIT NO. 22-76, AMENDMENT NO. 29

I. BACKGROUND

On February 3, 1977, the San Francisco Bay Conservation and Development Commission ("BCDC") issued Permit 22-76 (the "Permit") to the Port of San Francisco and Pier 39 L.P. as co-permittees, authorizing the construction of the commercial recreation and marina complex and public access adjacent to Piers 35, 37, 39, 41 and 43, commonly known as Pier 39. The Permit has been subsequently amended a number of times, including amendments permitting the aquarium use at Underwater World. The aquarium was permitted subject to providing enhanced public access at Pier 43. Amendment No. 29 to the Permit extended the period of time for construction of the Pier 43 public access improvements until December 31, 1996.

The Port has obtained a grant from the California State Coastal Conservancy in the amount of $650,000 for construction of the Pier 43 public access improvements. On April 9, 1996, the Port Commission approved an Agreement concerning State Coastal Conservancy Grant with Pier 39, delegating to Pier 39 and Underwater World, the Port's responsibilities under the Grant to construct the Pier 43 improvements. As explained to the Commissioners at that time, the arch structure at the end of the Pier 43 Apron and the railroad ferry ramp within the Pier 43 Apron (collectively, "Historic Structures") are aged, deteriorated, and do not meet current codes. Although the project will provide additional support and shoring for these structures, the project does not include any attempt to bring

them to standards set forth in current codes. Under the approved Agreement, Pier 39/Underwater World, and its contractors, are responsible for any further work of repair, reconstruction, or maintenance of the Historic Structures or for any failure, collapse, overturning or distortion thereof as a result of Pier 39's/Underwater World's or its contractors' negligence, but for no other cause.

BCDC is concerned about the condition of the Ferry Arch, and has inserted a Release in Section II.QQ of Amendment No. 29, which reads as follows:

> The permittees hereby release and discharge the State of California, its agencies, departments, officers, agents and employees from any and all claims, demands, losses or judgments in connection with the possible failure, collapse, overturning, distortion or movement of the historic ferry arch and ferry ramp at Pier 43 for any cause.

The Release is intended to prohibit the Port and Pier 39 from suing BCDC for any claims resulting from the failure, collapse, overturning, distortion or movement of the ferry arch and ramp.

BCDC has already issued the Permit Amendment No. 29. However, the amendment provides that Section II.QQ regarding the release shall not be effective as to the Port unless and until approved by the San Francisco Port Commission.

Prepared by: Neil H. Sekhri, Assistant Port General Counsel

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-51**

WHEREAS, Charter Section 3.581 empowers the Port Commission with power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, BCDC has issued Amendment No. 29 to Permit No. 22-76, regarding the construction of certain public access improvements to Pier 43 apron, which improvements are to be constructed by Pier 39 and Underwater World; and

WHEREAS, BCDC requires as a condition of its permit that Pier 39 and Port of San Francisco release and discharge the State of California, its agencies, departments, officers, agents and employees from any and all claims, demands, losses or judgments in connection with the possible failure, collapse, overturning, distortion or movement of the historic ferry arch and ferry ramp at Pier 43 for any cause; now, therefore, be it

RESOLVED that the Port Commission hereby agrees to release and discharge the State of California, its agencies, departments, officers, agents and employees from any and all claims, demands, losses or judgments in connection with the possible failure, collapse, overturning, distortion or movement of the historic ferry arch and ferry ramp at Pier 43 for any cause, and further authorizes the Executive Director to take such further action as is necessary to effect this Release.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 28, 1996.

_____
Secretary

i::\agenda.bcd

PORT OF SAN FRANCISCO

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MEMORANDUM

May 21, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Francis J. O'Neill
Hon. Preston Cook
Hon. James R. Herman

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of travel to New York City for one Port representative to attend meetings of port, labor and public officials related to legislative proposals affecting the availability of disposal sites for dredged material not suitable for aquatic disposal.

A Port representative has been invited by labor leaders in New York to attend meetings at the Port of New York-New Jersey related to legislative initiatives to resolve the dredging crisis at the Port of New York-New Jersey.

For the past four years, Mr. Herman has served as President of the Bay Dredging Action Coalition (BDAC), a regional organization that has been instrumental in advocating for solutions to the Bay Area's dredging crisis. Our region has developed a model program for resolving impasse over dredging projects through a consensus approach and Mr. Herman will bring this expertise and knowledge to port officials and labor leaders in New York who are facing a crisis situation with disposal of their dredged material. The meetings will help our port's efforts to coordinate a national lobbying strategy to urge the Federal government to develop disposal sites for dredged material not suitable for aquatic disposal.

The estimated cost for the trip is as follows:

Airfare	$ 361.20
Hotel (7 nights @ $200.00)	$1400.00
Transportation (airport transfers, cabs)	$ 200.00
Meals	$ 160.00
Telephone Calls	40.00
Total	$2661.20

These funds are available for expenditure in the Port's FY95-96 budget.

Prepared by: Veronica Sanchez, Manager, Governmental Affairs

THIS PRINT COVERS CALENDAR ITEM NO. 9A

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-50

WHEREAS, the Executive Director is requesting authorization for one Port representative to attend meetings of port, labor and public officials related to legislative proposals affecting the availability of disposal sites for dredged material not suitable for aquatic disposal to be held in New York City (May 29-June 5, 1996); and

WHEREAS, the cost of this trip has been included in the Port Commission's Fiscal year 1995-1996 budget; now, therefore, be it

RESOLVED, that the Port Commission hereby approves this travel request.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of May 28, 1996.

_____
Secretary

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5/28/96

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

DOCUMENTS DEPT.

JUN 27 1996

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MINUTES OF THE MEETING
MAY 28, 1996

1. **ROLL CALL**

The meeting was called to order by Commission President Michael Hardeman at 4:07 p.m. The following Commissioners were present: Michael Hardeman, Frankie Lee, Preston Cook and Frank O'Neill. Commissioner James Herman was not present.

2. **APPROVAL OF MINUTES** - May 14, 1996

ACTION: Commissioner Cook moved approval; Commissioner O'Neill seconded the motion. All of the Commissioners were in favor; the minutes were adopted.

3. **EXECUTIVE**

A. Executive Director's Report - Mr. Bouey introduced Item 3B and 3C.

B. Approval of Naming Bayfront Promenade along the Embarcadero, "Herb Caen Way at Baghdad by the Bay" from the proposed China Basin ballpark to Fisherman's Wharf in honor of Mr. Herb Caen (Resolution No. 96-48)

Mr. Bouey indicated that the Board of Supervisors meeting is running longer than expected; thus, Supervisor Shelley will not be able to attend the Commission meeting.

Mr. Bouey indicated that Mr. Caen's first column was written on July 5, 1938 and he has been writing for 58 continuous years. He has written over 16,000 columns, 12 books and hundreds of magazine articles. There is no better way for a newcomer to San Francisco to find out what a wonderful City this is and there's no better way for a citizen to find out what is going on in the City by the bay than by reading Herb Caen's column. Mr. Bouey opined that Mr. Caen's real skill has been his ability to take a small vignette or an overheard comment and in his three dot style, convert that moment into something magical that all can understand and relate to. After all these many years, Mr. Caen received the Pulitzer Prize, which he so richly deserved. In turn, the Mayor and the Board of Supervisors have asked the Port Commission to name the promenade along the Embarcadero in honor of Mr. Caen. Mr. Bouey pointed out that the official street names of the Embarcadero and Jefferson street remain the same. This is to honor and thank Mr. Caen for his many years of holding up San Francisco as a very magical and wonderful place to be from and to be at.

Commissioner Cook made a motion to modify the name to simply "Herb Caen Way,"

instead of the proposed "Herb Caen Way at Baghdad by the Bay." He offered the modification due to the current negative connotation of the word "Baghdad." He quoted Mr. Caen's article today "I am overwhelmed by the honor but uncomfortable with Baghdad... confusing to tourist an allusion I had 55 years ago when the City seemed straight out of an Arabian night's dream." Commissioner Cook stated that he too is uncomfortable with Baghdad's use in the name along the promenade. Baghdad is the capital of Iraq, a terrorist state that invaded a neighboring country. Our country went to war against Iraq and lost many lives. Baghdad's leader, Sadam Hussein, is anti-Semite, an international terrorist, mass murderer of his own people, a racist, killing thousands of Kurds in their own homes. The Port Commission should abandon the use of Baghdad as inappropriate and not fitting for our great City, the new bayfront or Mr. Caen. It would be a pleasure to name the Port's promenade after Mr. Herb Caen, a long time source of daily entertainment, a respected journalist, a Pulitzer Prize winner and a man deserving of this lasting honor. Commissioner Cook added that he had the opportunity to communicate with Mr. Caen and Supervisor Shelley today and both are agreeable if the Commission feels it appropriate to remove the word "Baghdad" and simply designate the promenade, "Herb Caen Way."

Mr. Bouey offered one more modification to the resolution, i.e. "Herb Caen Way ..."

Ms. Mindy Linetzky, Supervisor Shelley's aide, stated that in the Supervisor's resolution, he asked that the promenade be named after Herb Caen and honor him any way the Commission deems it appropriate.

Mr. Michael Levin asked the Commission to consider his comments or hear all sides of the issue before approving the resolution. He was pleased with Commissioner Cook's comments and agreed with all his remarks concerning removing the "Baghdad by the Bay" phrase. He enumerated his reasons for opposing the naming of the promenade in honor of Mr. Caen.

ACTION: Commissioner O'Neill moved approval, as amended; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution, as amended, was adopted.

C. Approval of Policy for Non-Sportfishing Trips for Hire at Fisherman's Wharf Harbor. (Resolution No. 96-49)

Mr. Bouey mentioned that a month ago, staff wrote a letter to tour boats owners engaging in non-approved tours. The Commission listened to those affected by those letters and named a subcommittee of commissioners as well as Port staff to work on this problem. He commented that the Port's position has always been in support of the fishing industry. Staff proposes a policy that is fair and most importantly, supportive of the fishing industry, while weeding out opportunistic tour operators who are not engaged in the fishing industry. With all the federal regulations that have occurred, it is tough for the fishing industry to make a living. The accompanying policy will allow boats to do tours from the fisherman's wharf lagoon provided that

they meet the following requirements:

1) It has to be an active fishing party boat, which means it makes sportfishing trips on a minimum of 75 days per year (as evidenced by Skipper's Logs maintained for the CA Dept. of Fish and Game) and the price per passenger for said sportfishing trips is not less than 75% of the prevailing prices for sportfishing trips from Fisherman's Wharf.

2) The vessel must meet all the requirements and regulations of the US Coast Guard, CA Dept. of Fish & Game and Federal Communications Commission.

3) The number of days each year that the fishing party boat conducts sportfishing trips must exceed the number of days that it conducts non-sportfishing trips.

4) Non-sportfishing trips are defined as lasting more than one hour and limited to the following activities:

   (a) Funerals/scattering ashes at sea;
   (b) Nature/whale watching excursions;
   (c) Wedding or other private parties;
   (d) Business meetings; or
   (e) Scenic bay tours

5) These boats are required to have appropriate insurance.

Additionally, there are enforcement procedures as indicated in the agenda package. As well, the signs both off and on the boats will be regulated by Port staff with appealable rights to the Executive Director if the individual boat does not agree with the decision made by Port staff.

He complimented the fishing industry for their responsiveness and being supportive of the Commission's goals. The goals of the Commission and the fishing industry are in sync. Most, if not all, the fishing boats agree with this policy.

Mr. Phil Bentivegna, Butchie "B" Sportfishing, stated that this is the best way to be subsidized without going broke and he thanked the Commission for their support.

Commissioner Cook inquired if Mr. Bentivegna had an opportunity to review the policy. Mr. Bentivegna replied to the affirmative and added that they agree with the policy one hundred percent. Commissioner Lee commended staff for working out the issues with the respective parties. Mr. Bouey also commended Commissioners Lee and Cook who worked with staff in resolving these issues.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

4. LEGISLATIVE

5. TENANT & MARITIME SERVICES

6. FACILITIES & OPERATIONS

A. Authorization to award Contract No. 2610, Pier 68 Shipyard Crane Improvements, to Rigging International. (Resolution No. 96-52)

Mr. Bouey stated that this item was previously before the Commission to request permission to advertise for bid. The total of each bid received was over $4 million. There's only enough money to award for the base bid amount; staff now requests $1.6 million plus 10% for contingencies to repair and repaint one crane, partly salvage another, improve the operator's cabs on five cranes and to do lead and asbestos abatement work.

Commissioner O'Neill thanked staff for including 10% for contingencies. He inquired about the difference between this contract and the $4 million. Mr. Bouey replied that most of the monies involved in this contract are grants from State and Federal agencies and that those are the only monies available.

Commissioner Lee inquired about the bidding process; he was dismayed that there were only two bidders. Mr. Ed Byrne, acting on behalf of the Chief Harbor Engineer, stated that this was posted, advertised and 300 invitations to bid were mailed out; 21 firms requested specifications; of that, 2 local bids were received. In response to Commissioner Lee's inquiry about the level of interest by the crane companies, Mr. Bouey replied that the industry is very busy, not only locally but nationally. This work tends to be a little bit more complicated than some of the other types of crane repair work, which makes it less attractive for potential bidders.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

Commissioner O'Neill inquired about the timetable of the proposed ballpark. Mr. Jack Bair, from the Giants organization, replied that the proposed ballpark opening will be in the year 2000. The construction will begin in late 1997. If everything goes as plan, approximately a year from now, the Port Commission will be reviewing the plan and the proposed lease between the Port and the Giants.

7. PLANNING & DEVELOPMENT

A. Approval of Release of Claims Provision in BCDC Permit No. 22-76, Amendment No. 29 Regarding Pier 43 Public Access. (Resolution No. 96-51)

Mr. Bouey stated that a couple of months ago, he indicated that this item will return to the Commission. As a condition for building Underwater World, Pier 39 is

required to construct certain public access improvements at Pier 43. The Commission recently voted on Amendment 29 which extended the time for constructing these public access improvements to December 1, 1996. On April 9, the Commission approved the agreement concerning the State Coastal Conservancy Grant with regard to construction of these improvements. As explained at that time, the arch structure at the end of Pier 43 and the railroad ferry ramp within the Pier 43 apron are aged, deteriorated, and do not meet current codes. This project does not provide additional support in shoring for the structures. Accordingly, BCDC is concerned about the condition of the ferry arch and inserted a release in Section II.QQ of Amendment No. 29, which reads as follows:

"The permittees hereby release and discharge the State of California, its agencies, departments, officers, agents and employees from any and all claims, demands, losses or judgments in connection with the possible failure, collapse, overturning, distortion or movement of the historic ferry arch and ferry ramp at Pier 43 for any cause."

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

8. ADMINISTRATION

9. CONSENT CALENDAR

A. Approval of travel to New York City on May 29 thru June 5, 1996, for one Port representative to attend meetings of port, labor and public officials related to legislative proposals affecting the availability of disposal sites for dredged material not suitable for aquatic disposal, in accordance with the Port's FY 1995/96 budget. (Resolution No. 96-50)

ACTION: Commissioner Cook moved approval; Commissioner O'Neill seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

10. NEW BUSINESS / PUBLIC COMMENT

Commissioner O'Neill thanked everyone for an interesting four years at the Port. He stated that he will write a letter and with the Commissioners' approval, he'd like it included in the minutes of the meeting.

11. EXECUTIVE SESSION

At 4:40 p.m., the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following matters:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS

1) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

2) Application for Leave to Present a Late Claim - Joyce Levine, pursuant to California Government Code Section 54956.9(b)(1).

The City Attorney is of the opinion that based on existing facts and circumstances, discussion of existing and anticipated litigation matters in open session would prejudice the legal position of the Port. An executive session is specifically authorized under California Government Code Section 54956.9(b)(1)(c).

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

At 5:30 p.m., Commissioners Hardeman, Lee, Cook and O'Neill returned from executive session and convened in public session.

ACTION: Commissioner O'Neill made two motions: one to accept the action on the claim as proposed by Legal staff and one to not disclose any information on the other items discussed in the executive session; Commissioner Cook seconded the motion. All of the Commissioners were in favor.

The meeting was adjourned at 5:32 p.m.

SAN FRANCISCO
PORT COMMISSION

REGULAR MEETING
4:00 P.M., TUESDAY, JUNE 11, 1996
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

SF
55
1
6/11/96

AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - May 28, 1996

3. **EXECUTIVE**

   A. Executive Director's Report

DOCUMENTS DEPT.
JUN 06 1996
SAN FRANCISCO
PUBLIC LIBRARY

4. **LEGISLATIVE**

5. **TENANT & MARITIME SERVICES**

6. **FACILITIES & OPERATIONS**

7. **PLANNING & DEVELOPMENT**

8. **ADMINISTRATION**

   A. Approval of Bid and Award of Revenue Bond Reserve Fund Investment Contract. (Resolution No. 96-54)

9. **CONSENT CALENDAR**

   A. Approval of travel for one Port representative to travel to the Port of Tacoma on June 25-26, 1996 for cargo marketing research, in accordance with the Port's Fiscal Year 1995-96 budget. (Resolution No. 96-55)

10. **NEW BUSINESS / PUBLIC COMMENT**

11. **EXECUTIVE SESSION**

    A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

       1) Property: Port property located at Berry Street and Second Street (China Basin).
       Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
       *San Francisco Giants Representative: Larry Baer, Vice President

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The City Attorney is of the opinion that based on existing facts and circumstances, discussion of existing and anticipated litigation matters in open session would prejudice the legal position of the Port. An executive session is specifically authorized under California Government Code Section 54956.9(b)(1)(c).

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. ADJOURNMENT

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary.

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

June 11, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Bid and Award of Revenue Bond Reserve Fund Investment Agreement

DIRECTOR'S RECOMMENDATION: AUTHORIZE BID AND AWARD OF REVENUE BOND RESERVE FUND INVESTMENT AGREEMENT

BACKGROUND

In June 1994, the Port issued $53,610,000 in Revenue Refunding Bonds (the "1994 Bonds") pursuant to an Indenture of Trust authorized by the Port Commission (Resolution 94-37). In keeping with traditional municipal bond practices, a debt service Reserve Fund was established in the amount of $5,361,000, representing 10% of the amount of debt issued. Monies on deposit in the Reserve Fund are to be available 5 days prior to each semi-annual interest payment date and each annual principal payment date to protect against a short-fall in revenues to pay debt service on the 1994 Bonds.

For the past 2 years, Reserve Fund monies have been held and invested by Union Bank, as Trustee on behalf of the bondholders. The current balance of the Reserve Fund is $5,382,907 which amount includes current period interest earnings of $21,907. Interest earnings from the Reserve Fund are remitted to the Port by check from the Trustee monthly. Currently, Reserve Fund monies are invested by the Trustee on an over-night

basis at a daily earnings rate equal to approximately 4.89% (rate as of June 3, 1996). The Trustee has been instructed by the Port to maintain a short-term investment strategy in anticipation of the Port's execution of a long term investment agreement for the Reserve Fund. If a long term investment agreement is not executed, the Port will instruct the Trustee to return to an investment strategy of 6-month Treasury bills. Current 6-month Treasury bill rates are 5.43% (rate as of June 3, 1996).

Pursuant to I.R.S. regulations, the Reserve Fund can earn tax-free interest at a cumulative rate of up to 5.63% (the "arbitrage yield"). [The arbitrage yield is calculated as the value of the interest cost of the bonds, plus the cost of accrued interest and any purchase premiums, discounted over the life of the bonds. It differs from the True Interest Cost (TIC) in that it does not include underwriting fees in the cost calculation.] Any cumulative earnings in excess of the arbitrage yield (5.63%) are required to be fully rebated to the I.R.S. Due to market conditions, the Port has been earning interest at annual rates well below the arbitrage yield, which phenomenon is referred to by the I.R.S. as "negative arbitrage".

FORWARD PURCHASE AGREEMENT

The Port's financial advisor, Public Financial Management, Inc. ("PFM"), has reviewed several investment alternatives to maximize earnings for the Reserve Fund monies. On the advise of PFM, and careful review by Port staff, we have chosen to use a Forward Purchase Agreement to lock in an earnings rate equal to or greater than the maximum rate that the Port is allowed to earn on funds related to the 1994 Bonds. Use of the Forward Purchase Agreement will mitigate any risks with regard to investment principal, interest rate risk or reinvestment risk.

The Port can utilize a Forward Purchase Agreement to lock in an interest rate today in return for giving the winning bidder the right to future investment of the Reserve Fund monies. The winning bidder or "provider" will guarantee an interest rate for the entire length of the agreement at a rate which is higher than current market rates in return for the Port's commitment to purchase Government Obligations under the terms of the Forward Purchase Agreement. Potential bidders include broker/dealers, other financial institutions and Federal agencies.

The Port (through its Trustee) will purchase Government Obligations from the provider with maturity dates that will match the need of the Reserve Fund to be available in cash to guarantee semi-annual debt service payments on the 1994 Bonds. Government Obligations are defined as either direct obligations of the U.S. Treasury or securities with interest and principal payments guaranteed by the full faith and credit of the U.S. or an agency thereof. Each Government Obligation will have a term of 6 months or less. Each Government Security will be a zero-coupon security. A zero-coupon security is a security without a current interest coupon which is purchased at a substantial discount from its maturity value. Earnings to the Port from the investment are achieved from the difference between the discounted purchase price and the maturity value of the security. For instance, a zero-coupon security may be purchased at $0.90 for every $1.00 value at

maturity.

Advantages: The Forward Purchase Agreement will mitigate any risks with regard to (i) investment principal, (ii) interest rate risk, or (iii) reinvestment risk.

The Port's Reserve Fund monies, or investment principal, will not be at risk due to changes in interest rates because these monies will be invested in zero-coupon securities. Therefore, a downward change in market conditions will not result in a corresponding decrease in the value of the securities. Because the Port is restricting investment to Government Obligations with 6-month maturities, the full value of the investment principal will be due and available 5 days prior to each semi-annual debt service payment date.

The Port's investment principal will also not be at risk in the event of bankruptcy on the part of the provider because Government Obligations securing the investment will be delivered to the Trustee (and registered to the Port) prior to payment to the provider for the securities. Since the Port will be investing in Government Obligations rather than assets of the provider, bankruptcy on the part of the provider will have absolutely no impact on the Port's receipt of the full cash value of the securities. It will, however, have an impact on the Port's ability to continue to purchase Government Obligations under this Agreement following a bankruptcy (see *Disadvantages*, below).

The Port's Reserve Fund monies will not be impacted by interest rate risk since the interest rate for the life of the Forward Purchase Agreement will be set for the full term of the Agreement. If, in the future, rates are to fall, the Port will benefit because it has already locked in a higher rate of interest. If rates are to rise, the Port will not incur any opportunity cost by being invested at a lower rate, because any earnings in excess of the allowable arbitrage earnings must be fully rebated to the I.R.S. without any additional benefit to the Port.

The Port's Reserve Fund monies will not be subject to reinvestment risk since the purpose of the Forward Purchase Agreement is to lock in investment rates. Once the Port enters into an agreement, no future action has to be taken to invest funds until the expiration of the Agreement. The anticipated expiration of the Agreement is July 1, 2009, the final maturity of the 1994 Bonds.

Disadvantages: Risks of the Forward Purchase Agreement include (i) provider risk and (ii) termination risk.

Provider risk is the risk that the provider will not meet its obligations under the Forward Purchase Agreement. If the provider is unable to continue to deliver Government Obligations (most likely due to bankruptcy on the part of the provider), than the Port would be required to once again procure its own investments. If, at such time, interest rates have declined significantly, than the Port would likely be unable to realize the same level of earnings.

Termination risk is the risk that the provider will terminate the Forward Purchase Agreement and cease to deliver Government Obligations at the previously agreed upon rate of return. Under the Agreement, the provider has the right to terminate if the Port (a) defaults upon any part of the Agreement, (b) is unable to purchase Government Obligations due to a draw on the Reserve Fund monies, or (c) the Port's credit ratings with Moody's Investors Service or Standard & Poor's Corporation are downgraded below A and BBB+, respectively. The detrimental effect of termination is equivalent to that of provider risk in that the Port would be unable to realize equivalent earnings if interest rates have fallen. Furthermore, any of the above events resulting in termination would likely impair the Port from attracting and retaining another long term provider.

There is little that the Port can do to prevent termination risk that it would not otherwise do in its normal course of business. However, certain measures will be undertaken to mitigate provider risk. The Port will directly own the Government Obligations rather than holding them as collateral for payment from the provider. The Port will also require each bidder to meet certain qualifications, including that each potential provider must be rated AA or AAA and must maintain such rating throughout the life of the Agreement.

Fees: The execution of the Forward Purchase Agreement does not result in the direct payment by the Port to the provider of any fees. The benefit to the provider arises from the provider's ability to invest the Port's cash at rates higher than the rate it is required to deliver with each Government Obligation. For example, at this time, a Forward Purchase Agreement structured with a July 2009 term would probably result in a rate of 5.75% to the Port. A potential bidder is betting that he or she can earn in excess of 5.75% over the life of the Agreement and thus, not only recover any administrative costs, but also earn the desired profit. The bullishness of the bidder and the bidder's targeted profit level will drive its bid rate for acquisition of the Agreement.

As the Port's financial advisor, PFM will broker the Forward Purchase Agreement on the Port's behalf. PFM has proposed a fee of five basis points on the assets of the Agreement (approximately $18,000 - $23,000) in payment for the structuring and competitive procurement of the Forward Purchase Agreement. Such fee will be paid directly by the provider. Therefore, there is no additional out-of-pocket cost to the Port of executing the Forward Purchase Agreement.

Bidder Qualifications: Pursuant to the proposed bid form, qualified bidders must be substantial, domestic institutions and must have long term ratings of at least AA on their unsecured obligations or uncollateralized debt obligations.

RATIONAL FOR AUTHORIZING EXECUTIVE DIRECTOR TO AWARD BID

Throughout 1996 (and most of 1995), the bond market has been extremely volatile. As a result, investors (including potential providers) charge an interest rate penalty any time their ability to execute a transaction is constrained. As a result, the Executive Director is requesting approval to award the Forward Purchase Agreement to the winning bidder provided the bidder meets all required conditions. If award of the bid were to be delayed

until the Commission reconvenes and approves, such delay would likely cost the Port as much as a 0.25% reduction in the investment rate achievable under the Forward Purchase Agreement. Such reduction would nullify any benefit of executing the Forward Purchase Agreement and would reduce earnings to less than the permitted arbitrage rate of 5.63%.

SUMMARY

A Forward Purchase Agreement for the Reserve Fund will maximize earnings within the I.R.S.'s arbitrage limit. A Forward Purchase Agreement will lock in an earnings rate equal to or greater than the maximum rate that the Port is allowed to earn on funds related to the 1994 Bonds. Furthermore, the Forward Purchase Agreement will mitigate any risks with regard to investment principal, interest rate risk or reinvestment risk.

Prepared by: Benjamin A. Kutnick, Director, Administration

PORT OF SAN FRANCISCO
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-54**

WHEREAS, in June 1994, the Port issued its $53,610,000 Revenue Refunding Bonds, Series 1994, established a Reserve Fund in the amount of $5,361,000 and provided for the investment of such funds in the Indenture of Trust dated June 1, 1994; and

WHEREAS, amounts held in the Reserve Fund will be invested in Permitted Investments (as defined in the Indenture of Trust); and

WHEREAS, the Port desires to enter into a Reserve Fund Forward Purchase Agreement in order to lock in the maximum yield allowable to the Port in connection with the investment of monies held in the Reserve Fund by the Trustee pursuant to the Indenture of Trust; now, therefore, be it

RESOLVED, that the San Francisco Port Commission hereby authorizes and approves the solicitation of bids to determine the provider of securities under the Forward Purchase Agreement substantially in the form attached hereto; and, be it further

RESOLVED, that the Executive Director is hereby authorized to select the highest responsible bidder satisfying the requirements of such solicitation and is authorized, in consultation with the City Attorney, to make any necessary modifications to the Forward Purchase Agreement or execute any other documents necessary to carry out the intent of such Agreement; provided that the interest rate to be received by the Port shall not be less than 5.75% per annum and that the successful bidder shall have a credit rating for its long term unsecured debt in one of the two highest rating categories by a nationally recognized rating agency.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 11, 1996.

_____
Secretary

REQUEST FOR OFFERS

FORWARD PURCHASE AGREEMENT FOR DEBT SERVICE RESERVE FUND

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA REVENUE REFUNDING BONDS, SERIES 1994

General. The Port Commission of the City and County of San Francisco (the "Port") is soliciting offers for a Forward Purchase Agreement (the "Agreement") for funds related to the Port's Revenue Refunding Bonds, Series 1994 (the "Bonds").

The Agreement will provide, among other terms, for the forward sale of Government Obligations to Union Bank, San Francisco, CA (the "Trustee"). Government Obligations shall be delivered at such times and in such amounts as are required to invest funds deposited in the Reserve Fund (the "Fund"), initially from _____, 1996 (the "Settlement Date"), to five Business Days (as defined herein) prior to the next semi-annual date on which debt service payments are required to be made (the "Bond Payment Dates") and, thereafter, for periods commencing one Business Day after a Bond Payment Date and ending five Business Days prior to the next Bond Payment Date (the "Maturity Dates") as shown on Exhibit A of the Agreement. Government Obligations shall be limited to (i) direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America, (ii) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (iii) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (iv) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

The price of the Government Obligations will be established so as to effect an approximate zero yield-to-maturity during the period in which the Government Obligations are held in the Reserve Fund. (The yield-to-maturity may not be exactly zero due to rounding.) The dates of such deliveries will coincide initially with the settlement date and with semi-annual interest payment dates thereafter. The Government Obligations shall be delivered in such amounts as to invest fully (with the exception of rounding to thousand-dollar units) all amounts deposited (the "Available Amounts") in the Reserve Fund. The Available Amounts, Maturity Dates and the Bond Payment Dates are shown on Exhibit A of the attached Agreement.

Form of the Forward Purchase Agreement. The proposed form of Agreement is attached hereto as Exhibit C. Please review the Agreement and provide any and all written comments that you may have on the Agreement to Rich Rein or Michael Harris at PFM no later than 1:00 p.m._____, 1996. The comments may be telecopied to (717) 233-6073.

Upon reviewing all submitted comments, the Port shall determine, in its sole and absolute discretion, which submitted comments shall be incorporated into the Agreement. At least three days before the submission of final offers on the Agreement, the Port shall cause a revised Agreement to be circulated to all bidders who received this Request for Offers. The revised Agreement shall be the final agreement between the parties and will not be subject to any further negotiations after the award of the bid. By submitting a bid, the bidder acknowledges that it has read all the terms and conditions of the revised Agreement and is prepared to execute the Agreement in the form circulated.

The Bonds. The Bonds settled June 28, 1994. The Bonds are governed by an Indenture of Trust dated as of June 1, 1994, as supplemented by the First Supplemental Indenture of Trust, dated as of June 1, 1994 (collectively, the "Indenture"), each by and between the Port and the Trustee.

The Bonds are rated A and BBB+ with a stable outlook by Moody's and S & P, respectively. The Agreement will be subject to approval and conditions of Moody's and S & P.

The Reserve Fund is established in accordance with Section 5.04 of the Indenture. The Indenture provides that the Reserve Fund be an amount equal to the Reserve Requirement. Reserve Requirement means an amount equal to the lesser of: (i) Maximum Annual Debt Service of such Series of Bonds, (ii) ten percent (10%) of the proceeds derived from the sale of such Series of Bonds and (iii) 1.25 times average annual debt service due with respect to such Series of Bonds. The requirements for the Bonds is $5,361,000.

Qualified Financial Institution. The Agreement may only be executed with a "Qualified Financial Institution" as described below:

A "Qualified Financial Institution" shall mean a bank, insurance company, trust company, national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956, or a dealer in government securities which is recognized as a primary dealer by a Federal Reserve Bank, or other domestic corporation, and whose unsecured obligations or uncollateralized debt obligations have been assigned a long-term debt rating of at least AA, or the equivalent, by Moody's Investors Service, Inc., or Standard & Poor's Corporation, respectively.

Deposits. The Bonds settled on June 28, 1994. It is currently expected that deposits will be made to the Agreement on the Settlement Date after the execution of all documents related to the Agreement. Deposits will be made by electronic transfer to the account specified by the successful Qualified Financial Institution. On the Settlement Date, the Port anticipates that $5,361,000 will be available for transfer to the successful Qualified Financial Institution. No further deposits are expected to be made under the Agreement.

Use of Reserve Fund Monies. The Port established the Reserve Fund pursuant to the terms and conditions of the Indenture. The purpose of the Fund is to help secure the timely payment of principal and interest on the Bonds. Under the Indenture, the Trustee is obligated to transfer the monies in the Fund to the Debt Service Fund if the monies in the Debt Service Fund are insufficient to pay the principal and interest payable on the next Bond Payment Date. Should a transfer be required, it must occur five Business Days prior to the Bond Payment Date. The Bond Payment Dates are January 1 and July 1 of each year.

To ensure that the Trustee is able to comply with the terms of the Indenture, the Trustee must have good funds available at least five Business Days prior to each Bond Payment Date. Accordingly, the Qualified Financial Institution must deliver Government Obligations at such times and in such amounts as are required to invest funds

deposited in the Fund, initially, from settlement to five Business Days prior to the next Bond Payment Date and, thereafter, for periods commencing one Business Day after a Bond Payment Date and ending five Business Days before the following Bond Payment Date as shown in Exhibit A.

Termination. The Agreement will provide that the Port may terminate the Agreement at will with respect to all or a portion of its Notional Amount. Upon such termination, a termination value will be payable to the Port or the Seller, as applicable, based upon a determination of the Agreement's fair market value to each party at such time.

Refunding of the Bonds. Under the Agreement, the Seller will agree that the Agreement may be transferred to a reserve fund for any bonds issued to refund the Bonds. If the Notional Amount of the Agreement must be reduced as a result of such transfer then the provisions regarding termination of the Agreement would apply. The Port and the Seller are free to negotiate an increase in the Notional Amount or a change in the payment schedule for the Agreement if desired at such time.

Downgrade. In the event that the Seller is no longer a Qualified Financial Institution, the Trustee shall have the right to terminate this Agreement.

The Term. The Term of the Agreement is from_____, 1996, to July 1, 2004 the Call Date of the Bonds or July 1, 2009, the Maturity Date of the Bonds.

The Governing Law. The Agreement shall be governed by laws of the State of California.

Offer Submission. All offers are due by 1:00 p.m. EDT, _____, 1996. Offers should be telecopied to Public Financial Management, Inc., attention Rich Rein or Michael Harris, telephone: (717) 232-2723, fax: (717) 233-6073 or (717) 232-3087 using the Offer Sheet as attached as Exhibit A hereto.

Each Offer should specify semi-annual fee payment and the total fee amount and should be signed by an appropriate Officer of the Qualified Financial Institution. Except for the first semi-annual fee payment, all fee payments must be equal. See Exhibit A here to for the Offer Sheet. Any Offer submitted with any conditions shall be subject to rejection by the Port. The Port will have the right to reject any and all offers.

Award. The Agreement will be awarded to the Qualified Financial Institution providing the highest total amount of all semi-annual fee amounts.

The award shall be made as soon as practical after the tabulation of the offers. The Port reserves the right to reject any and all offers that are not submitted in strict accordance with the terms herein. The Port also reserves the right, in its sole discretion, to waive any irregularity or informality in any bid and to select the winning bidder among bidders submitting identical bids.

Amendment. This Request for Offers may be amended, supplemented or rescinded at any time prior to the date and time at which offer submissions are due as described above, by transmission to the potential Qualified Financial Institutions in the same manner as this Request for Offers is being transmitted.

Additional Information. Potential Qualified Financial Institutions requesting additional information may contact Michael Harris, telephone (717) 232-2723.

Expenses. All expenses associated with the Qualified Financial Institution's performance of the Agreement, including but not limited to the Qualified Financial Institution's legal fees, safekeeping fees, brokers' fees, collateral substitution fees and electronic funds transfer charges, are the responsibility of the Qualified Financial Institution.

At the direction of the Port, the Qualified Financial Institution will be required to pay on behalf of the Port, the Port's obligation of a fee of 0.05% or 5 basis points on the assets under the Agreement.

In accordance with recently issued federal regulations, the successful Qualified Financial Institution shall certify those administrative costs that are reasonably expected to be paid to third parties in connection with the Agreement.

Evidence of Qualifications and Legal Opinion. Prior to the execution of the Agreement, the successful Qualified Financial Institution shall furnish to the Port and the Trustee (i) such statements, certificates or other documents as the Port may reasonably request evidencing that such Qualified Financial Institution meets the qualifications described above, and (ii) an opinion of counsel acceptable to the Port in form of Exhibit B here to and substance satisfactory to Counsel to the Port to the effect that the Agreement constitutes a legally valid, binding, and enforceable obligation of such Qualified Financial Institution and that the funds on deposit in the Reserve Fund would not constitute property of the Seller under bankruptcy proceedings.

EXHIBIT A OFFER SHEET

We have received and read the Request for Offers for a Forward Purchase Agreement dated_____, 1996 (the "RFO") concerning the investment of certain funds in connection with the Port Commission of the City and County of San Francisco Revenue Refunding Bonds, Series 1994. We have reviewed the proposed Forward Purchase Agreement. We acknowledge and understand that the proposed Forward Purchase Agreement will not be subject to further negotiations after the award of the bid. We are prepared to execute the proposed Forward Purchase Agreement without any conditions. Our offer is as follows:

	Call Date (7/1/04)	Maturity Date (7/1/09)
FIRST FEE AMOUNT: $	_____	_____
SUBSEQUENT SEMI-ANNUAL FEE AMOUNTS: $	_____	_____
TOTAL FEE AMOUNT: $	_____	_____

Financial Institution: _____

Long Term Ratings: (Moody's/S&P) _____

We hereby certify that we are a qualified provider under the requirements set forth in RFO dated_____, 1996, with respect to the offer for this Agreement.

Signed: _____

Name: _____

Title: _____

Phone Number: _____

Fax Number: _____

Date: _____

PLEASE FAX YOUR OFFER TO Rich Rein or Michael Harris no later than 1:00 p.m. EDT, _____, 1996. Offers should be telecopied to Public Financial Management, Inc., attention Rich Rein or Michael Harris, telephone: (717) 232-2723, fax: (717) 233-6073 or (717) 232-3087. Should the timing of the pricing of the Agreement be changed, the new time will be announced via telecopy.

EXHIBIT B

(LETTERHEAD OF OUTSIDE COUNSEL TO SELLER)

_____,1996

Port of San Francisco
Ferry Building, Suite 3100
San Francisco, CA 94111

Union Bank
350 California Street, Suite 1150
San Francisco, CA 94104

Re: Forward Purchase Agreement, dated _____, 1996, for the Port Commission of the City and County of San Francisco Revenue Refunding Bonds, Series 1994

Ladies and Gentlemen:

We have acted as counsel to_____[Seller]_____in connection with its execution and delivery of the Forward Purchase Agreement, dated as of _____, 1996 (the "Forward Purchase Agreement"), by and between Union Bank, as Trustee ("Trustee") and the Seller. Capitalized terms used herein and not defined herein have the respective meaning given to them in the Forward Purchase Agreement.

In rendering this opinion, we have examined, among other things, copies of the Forward Purchase Agreement and the Indenture of Trust.

In connection with the foregoing, we have also examined originals or copies satisfactory to us of all such corporate records, agreement, certificates and other documents as we have deemed relevant and necessary as a basis for the opinions hereinafter expressed. In such examination we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity with the original documents of all documents submitted to us as copies.

In giving the opinions expressed below we do not purport to be expert in or generally familiar with or qualified to express legal opinions based on the laws of any jurisdiction other than federal laws, the laws of the State of California and the General Corporation Law of the State of California and opinions expressed herein are limited to federal law, the laws of the State of California and the General Corporation Law of the State of California.

Based upon the foregoing examination and review, we are of the opinion that:

(i) [seller] has full legal right, power and authority to enter into the Forward Purchase Agreement;

(ii) The Forward Purchase Agreement has been duly authorized, executed and delivered by [seller];

(iii) The Forward Purchase Agreement is a legal, valid and binding obligation of [seller] enforceable against it in accordance with the terms thereof, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity); and

(iv) In the event of a bankruptcy, receivership, conservatorship, liquidation or other applicable insolvency proceeding of which the Seller is the subject, under the laws of the applicable jurisdiction(s), (a) neither the Government Obligations delivered to the Trustee nor the other funds on deposit in the Reserve Fund would constitute property of the estate of the Seller in such proceeding, (b) neither the liquidation of the Government Obligations nor payments to the Owners of the Bonds from amounts in the Reserve Fund including proceeds from the sale of Government Obligations, would be subject to a stay (other than a temporary stay), (c) payments to the Owners of the Bonds from amounts in the Reserve Fund, including proceeds from the sale of Government Obligations, would not be voidable in such proceeding, [and (d) if the Seller is an insured depository institution, the Agreement complies with the requirements of Section 13(e) of the Federal Deposit Insurance Act, as amended (the "FDIA") and is a "qualified financial contract" within the meaning of Section 11(e) of FDIA.]

We are furnishing this opinion to you solely for your benefit and no other person is entitled to rely hereon. This opinion is not to be used, circulated, quoted or otherwise referred to for any other purpose.

Very truly yours,

EXHIBIT C

Debt Service Reserve Fund Forward Purchase Agreement

This Forward Purchase Agreement (this "Agreement"), dated as of _____, 1996, between Union Bank, San Francisco, California, (the "Trustee"), and _____ (the "Seller").

SECTION I. DEFINITIONS

For purposes of this Agreement, unless the context clearly indicates otherwise, the words and terms defined in this Section I have the respective meanings given to them herein or in the Indenture:

"Available Amount" means, at any time, amounts on deposit in the Fund from time to time in amounts no more than the Notional Amount.

"Bond Payment Date" means each date identified as a "Bond Payment Date" on Exhibit A unless such date is not a Business Day, in which case "Bond Payment Date" means the immediately succeeding Business Day; provided that in determining whether any such date is a Business Day no effect shall be given to clause (2) of the definition of Business Day.

"Business Day" shall mean, unless otherwise specified by the Indenture, any day of the week other than Saturday, Sunday or a day which shall be, in the State of California, the State of New York or in the jurisdiction in which the Corporate Trust Office of the Trustee or the principal office of the Registrar is located, a legal holiday or a day on which banking institutions are authorized or obligated by law or executive order to close, or (2) for purposes other than payments to the Trustee, a day on which any Qualified Eligible Security which may be delivered hereunder are not subject to delivery in New York, New York.

"Debt Obligations" means collectively the Port's Revenue Refunding Bonds, Series 1994, and any other Bonds as defined under the Indenture.

"Default Rate" means six-month LIBOR plus 1%, as such rate may change from time to time.

"Deficiency Amount" means the amount by which the cash and securities in the Fund, valued in accordance with the Indenture, is less than the Reserve Requirement.

"Delivery Date" means each date identified as a "Delivery Date" on Exhibit A unless such date is not a Business Day, in which case "Delivery Date" means the immediately succeeding Business Day. The Delivery Date shall be the date one Business Day after a Bond Payment Date.

"Delivery Notice" means a notice substantially in the form of Exhibit E or in such other form as provided by the Seller or Qualified Dealer and is reasonably acceptable to the Trustee.

"Differential" means the amount, if any, by which the Maturity Amount of any Eligible Security delivered hereunder exceeds the Market Value thereof.

"Government Obligation" means direct, full faith and credit, non-callable obligations of the United States of America . Government Obligations shall be limited to (i) direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America, (ii) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (iii) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (iv) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

"Fee Amount" means the amount as set forth in Exhibit B.

"Fund" means the fund created pursuant to Section 5.04 of the Indenture and designated thereunder as the Reserve Fund.

"Indenture" means the Indenture of Trust dated as of June 1, 1994, as supplemented by the First Supplemental Indenture of Trust, dated as of June 1, 1994 (collectively, the "Indenture"), each by and between the Port and the Trustee.

"Insolvent" means (i) the Seller shall (1) commence a voluntary case under the federal bankruptcy laws (as in effect on the date of this Agreement or hereafter), (2) file a petition seeking to take advantage of any other law, relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, (3) consent to any petition filed against it in an involuntary case under such bankruptcy or insolvency or other laws, (4) apply for or consent to the appointment of, or the taking of possession by, a Trustee, receiver, custodian, liquidator or the like for itself or for all or a substantial part of its property, (5) admit in writing its inability to pay, or generally not be paying, its debts as they come due, (6) make a general assignment for the benefit of creditors, or (7) take any official action for the purpose of affecting any of the foregoing; or (ii) a case or other proceeding shall be commenced against Seller, in any court of competent jurisdiction seeking (1) relief under the federal bankruptcy laws (as in effect on date of this Agreement or hereafter) or under any other law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, or (2) the appointment of a Trustee, receiver, custodian, liquidator or the like for the Seller, or for all or a substantial part of its property, and any case or proceeding shall continue undismissed and unstayed for a period of sixty (60) consecutive calendar days, or an order granting the relief requested in any such case or proceeding against such party shall be entered and shall remain in effect and unstayed for a period of sixty (60) consecutive days.

"Port" means the Port Commission of the City and County of San Francisco.

"LIBOR" means the rate per annum at which deposits in U.S. Dollars in the amount of $1,000,000 for a period of six months are offered to prime banks in the London interbank market at approximately 11:00 a.m. (London Time), as reported by REUTERS or such other electronic media service that may replace or substitute for REUTERS, two (2) working days prior to the date in respect of which such interest rate is being established, a "working day" being a Business Day on which dealings in foreign currencies and exchange between lenders may be conducted in London, England.

"Market Value" means with respect to any Qualified Eligible Security delivered hereunder, the market value thereof including accrued interest as specified by the Seller or Qualified Dealer, as the case may be, provided that the Market Value of any such security shall in no event exceed the Maturity Amount thereof.

"Maturity Amount" means, with respect to any Qualified Eligible Security delivered in connection with a Delivery Date, the amount, payable in cash, representing the principal and interest due thereon, on or before the maturity date of that security and the Maturity Date. In calculating the Maturity Amount for any Eligible Security, the Seller shall not include any earnings received from the reinvestment of any principal or interest payments received by the Trustee between the Delivery Date on which such security was delivered and the next Maturity Date.

"Maturity Date" means each date identified as a "Maturity Date" on Exhibit A unless such date is not a Business Day, in which case "Maturity Date" means the immediately preceding Business Day. The Maturity shall be the date five (5) Business Days prior to the next succeeding Bond Payment Date.

"Net Revenues" shall have the meaning ascribed to such term in the Indenture.

"Notional Amount" means amount of Fund to be invested pursuant to this Agreement.

"Qualified Dealer" means _____ [to be designated by Seller at time bids are submitted]. Any change to or substitution of the Qualified Dealer designated herein shall be subject to the prior written consent of the Port which consent the Port can withhold in its sole and absolute discretion.

"Qualified Eligible Security" for any Delivery Date means Qualified Eligible Security which shall (i) mature not later than the next Maturity Date and (ii) have a Maturity Amount which does not exceed the Available Amount for such Delivery Date.

"Qualified Financial Institution" shall mean a bank, insurance company, trust company, national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956, or a dealer in government securities which is recognized as a primary dealer by a Federal Reserve Bank, or other domestic corporation, and whose unsecured obligations or uncollateralized debt obligations have been assigned a long-term debt rating of at least AA, or the equivalent, by Moody's Investors Service, Inc., or Standard & Poor's Corporation, respectively.

"Reserve Requirement" means an amount equal to the lesser of: (i) Maximum Annual Debt Service of such Series of Bonds, (ii) ten percent (10%) of the proceeds derived from the sale of such Series of Bonds and (iii) 1.25 times average annual debt service due with respect to such Series of Bonds. The requirement for the 1994 Bonds is $5,361,000.

"Resolution" means Resolution No. 94-37 of the Port, adopted on March 22, 1994 and Resolution No. 325-94 of the City and County of San Francisco, adopted April 11, 1994 (collectively, the "Resolution").

"Early Maturing QES" means any sold and delivered Qualified Eligible Security that either matures or has a coupon payment between its Delivery Date and five (5) Business Days before the next Bond Payment Date.

"Settlement Date" means [_____, 1996].

"Termination Date" shall be July 1, 2004 the Call Date of the Bonds or July 1, 2009, the Maturity Date of the Bonds.

"Termination Value" means the amount calculated with respect to all or a portion of the Notional Amount as follows:

(i) The Seller shall use best efforts to obtain quotations, as of the date of termination of this Agreement, from at least three leading dealers in United States Government securities, each with a rating on long term debt of AA or better from at least one nationally recognized rating agency, which enter into agreements such as this Agreement (each, a "Dealer") of the amount (which may be positive or negative) that such Dealer would pay or would have paid to the Seller (expressed as a positive amount), or would have been required to be paid by the Seller (expressed as a negative amount), in consideration of the Seller assigning to such Dealer its rights under this Agreement as of the date of termination, assuming this Agreement remained in effect until the Stated Termination Date. Such quotations shall be obtained, to the extent practical, as of the same time on the date of termination or such other date as shall be mutually agreed upon by the Trustee and the Seller.

(ii) At the direction of the Port, the Trustee shall also obtain up to three quotations in the same manner as described in paragraph (i) above. The Port may elect not to obtain any quotations.

(iii) If more than three such quotations are obtained by the Seller and the Trustee combined, the highest and lowest quotations shall be disregarded and the Termination Value shall be the arithmetic mean of the remaining quotations.

(iv) If exactly three quotations are obtained, the Termination Value shall be the median quotation.

(v) If the Seller and/or the Trustee are unable to obtain in the aggregate at least three quotations, the Termination Value shall be the amount, as of the date of termination of this Agreement, as agreed upon in good faith between the Trustee and the Seller, required to compensate the Trustee or Seller, as the case may be, for any losses or costs (including loss of bargain and costs of funding but excluding legal fees and other out-of-pocket expenses) that it may incur as a result of the early termination of this Agreement.

SECTION II. PURCHASE AND SALE ARRANGEMENT

Section 2.1 Purchase and Sale of Qualified Eligible Security.

(a) In consideration of the payment by the Seller of each Fee Amount, Seller may at its option, sell or cause a Qualified Dealer to sell to the Trustee, on any Delivery Date, in accordance with the delivery requirements of Section 2.2 hereof, Qualified Eligible Security selected by Seller or the Qualified Dealer with an aggregate Maturity Amount no more than the Notional Amount.

(b) In exchange for the Qualified Eligible Security, the Trustee shall, on behalf of the Port, purchase such securities and immediately pay to either Seller or Qualified Dealer, as applicable, in accordance with Section 2.2(b) hereof, an amount equal to the Maturity Amount thereof. Such purchase shall be solely from the Available Amount. Each delivery of Qualified Eligible Security to the Trustee shall be in accordance with the delivery requirements set forth in Section 2.2.

(c) The Seller acknowledges that if the Available Amount is less than the Notional Amount because of a draw-down of the Fund as permitted under the Indenture, neither the Port nor the Trustee shall have any further obligation under this Section 2.1 and any failure to purchase for this reason shall not be deemed a failure to purchase under Section VII.

(d) The Seller acknowledges that if, on any Bond Payment Date, the Port has notified the Trustee that it will not be able to pay the scheduled interest on, or principal of, any obligation to which the Fund relates, the Trustee shall not be required to purchase Qualified Eligible Security on such Delivery Date.

(e) Neither the Seller nor the Qualified Dealer is required to own any Qualified Eligible Security at the time of Seller's execution of this Agreement or at any time prior to the respective Delivery Dates thereof. The Qualified Eligible Security and the interest thereon, will, prior to the delivery thereof to the Trustee, be the sole property of the Seller or Qualified Dealer, and any profit or loss with respect to the holding or sale of any Qualified Eligible Security delivered hereunder, even if purchased and identified to fulfill Seller's obligations under this Agreement, shall, prior to such delivery, be for the sole account of the Seller or Qualified Dealer.

Section 2.2 Delivery; Payment.

(a) All Qualified Eligible Security sold and delivered hereunder shall be delivered to the Trustee to the account specified for the Trustee in Section 9.1 hereof, through the Federal Reserve wire transfer system (or, in the absence of such system in the future, in such manner as at the time is generally acceptable for delivery of Qualified Eligible Security). All Qualified Eligible Security delivered hereunder shall be in book-entry form only, and delivered to the Trustee on a "delivery versus payment" basis whereby delivery of the Qualified Eligible Security is provided to the Trustee prior to the payment of the Qualified Eligible Security therefor.

(b) (i) The Seller shall give or cause the Qualified Dealer to give the Trustee at least two (2) Business Days' prior written notice of the delivery of any Qualified Eligible Security. Such notice shall specify the maturity date, the Maturity Amount, the Market Value, the Differential, the applicable Delivery Date, the CUSIP Number and the security to be delivered and shall be in substantially the form of the Delivery Notice. If the Trustee determines that the securities proposed to be sold and delivered by the Seller or the Qualified Dealer are not Qualified Eligible Security, the Trustee shall immediately notify the Seller and the Port. In no event shall the Trustee purchase or be required to purchase securities which are

not Qualified Eligible Security. Failure of the Trustee to notify Seller that the securities tendered are not Qualified Eligible Security shall not, however, release the Seller or Qualified Dealer, as applicable, from, or otherwise affect, its obligation to deliver or cause to be delivered only Qualified Eligible Security.

(ii) Concurrently with the delivery of any Qualified Eligible Security, the Trustee shall pay to the Seller or Qualified Dealer, whichever delivers the Qualified Eligible Security, the Maturity Amount thereof from (and only to the extent of) the then Available Amount.

(iii) All payments to be made hereunder shall be made in immediately available funds from the Fund by means of a bank or federal funds wire.

Section 2.3 Subsequent Deliveries.

(a) For any Early Maturing QES, the Trustee shall use the proceeds received from the Early Maturing QES ("Interim Proceeds") to purchase additional Qualified Eligible Security from the Seller if the Seller (i) notifies the Trustee of its intent to sell Qualified Eligible Security and (ii) delivers the requisite Delivery Notice to Trustee. All these purchases of Qualified Eligible Security must conform with all the requirements of this Agreement, including Section 2.2.

Section 2.4 Late Delivery; Failure to Deliver.

If Seller does not deliver or cause the Qualified Dealer to deliver Qualified Eligible Security on any Delivery Date or if the securities which are so delivered have a Maturity Amount which is less than the Notional Amount, the Trustee shall invest, in overnight investments, an amount equal to the difference between the applicable Notional Amount and the amount of Qualified Eligible Security in a permitted investment as specified in the Indenture that may be liquidated on not more than one day's notice pending any late or further delivery from the Seller or Qualified Dealer prior to the related Bond Payment Date. The Seller or the Qualified Dealer shall reimburse the Port for any investment charges incurred by the Port in connection with the overnight investment of any Fund Monies. Reimbursement amounts shall be payable to the Trustee for the accounts of the Port. The Trustee will not invest Available Amounts except as provided in this Section 2.4.

No failure on Seller's part to deliver or cause the Qualified Dealer to deliver Qualified Eligible Security hereunder shall terminate or affect Seller's right to cause future sales of Qualified Eligible Security in accordance with this Agreement.

Section 2.5 Notice of Withdrawal from Fund

If at any time the Trustee is required under the Indenture to withdraw any investment or other amounts from the Fund, including Qualified Eligible Security, to make a debt service payment, the Trustee shall promptly give oral and written notice thereof to the Seller and shall in such notice specify (i) the amount or investments which are to be withdrawn and (ii) the amount which will be in the Fund after such withdrawal. If the Fund is replenished after any amount is withdrawn pursuant to this Section 2.5, the Trustee shall promptly give the Seller oral and written notice of such replenishment and the amount thereof.

Section 2.6 Fee Amount

In consideration of the execution of this Agreement by the Trustee, the Seller shall pay to the Trustee for the account of the Port, the Fee Amount as set forth in Exhibit B. This Fee Amount shall be payable regardless of whether Seller delivers the Qualified Eligible Security. The Seller shall have no right of set off against the Fee Amount.

Section 2.7 Term of Agreement

The term of this Agreement shall commence on_____, 1996 and shall end on July 1, 2004 or July 1, 2009.

SECTION III. DEFEASANCE OR REFUNDING

Section 3.1 Defeasance or Refunding.

The Trustee on behalf of the Port shall give Seller at least ten (10) Business Days' prior notice of its intention to defease, redeem or refund the Bonds as provided in the Indenture. The Seller agrees that this Agreement may be transferred at the direction of the Port to a reserve fund for any refunding bonds issued to refund the Bonds and will execute any amendments hereto necessary to reflect changes in the name of the bonds, trustee or similar matters hereunder.

SECTION IV. REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations and Warranties.

Each party hereto represents and warrants to the other parties hereto that:

(a) it is duly organized and validly existing under the laws of its jurisdiction, or state of incorporation or establishment;

(b) it has the power to enter into and perform, its obligations under this Agreement including, if it is the Seller, to pay all the Fee Amounts and, if it is the Trustee, to perform its obligations under the Indenture;

(c) this Agreement has been duly authorized, executed and delivered by it and, assuming the due authorization, execution and delivery hereof by the other parties hereto, constitutes a legal, valid and binding obligation of it enforceable against it in accordance with the terms hereof, subject to applicable bankruptcy, insolvency, conservatorship, receivership and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law;

(d) its execution and delivery of this Agreement and its performance of its obligations hereunder do not and will not constitute or result in a material default under, a material breach or violation

of, or the creation of any lien or encumbrance on any of its property under, its charter or by-laws, or, in the case of the Seller, any other agreement, instrument, judgment, injunction or order applicable to it or any of its property;

(e) all consents, authorizations and approvals requisite for its execution, delivery and performance of this Agreement have been obtained and remain in full force and effect and all conditions thereof have been duly complied with and no other action by, and no notice to or filing with, any governmental authority or regulatory body is required for such execution, delivery or performance;

(f) there is no proceeding pending or, to the best of its knowledge, threatened against it at law or in equity or before any governmental instrumentality or in any arbitration, which would materially impair its ability to perform its obligations under this Agreement, and there is no such proceeding pending against it which purports or is likely to affect the legality, validity or enforceability of the Agreement;

(g) in the case of the Trustee;

(i) The provisions of the Indenture with respect to it are legal, valid and binding obligations, enforceable against it in accordance with the terms thereof, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

SECTION V. COVENANTS

Section 5.1 Covenants.

The Seller and the Trustee each covenants to each other that so long as it shall have any obligations under this Agreement it shall:

(a) maintain in full force and effect all material authorizations and agreements of and exemptions, consents, licenses, actions or approvals by, and all filings with or notices to, any governmental or other authority that are required to be obtained or made by such party, with respect to this Agreement and will use all reasonable efforts to obtain or make any that may become necessary in the future;

(b) comply in all material respects with all applicable laws, rules, regulations and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement;

(c) give the other parties hereto prompt notice of any legal proceedings pending against such party which, if adversely determined would affect the legality, validity or enforceability of this Agreement, or with respect to the Trustee, would in its judgment materially impair its ability to perform its obligations under this Agreement;

(d) not take any action that would cause any of the representations and warranties contained in Section 4.1 hereof to be untrue or incorrect in any material respect;

SECTION VI. CONDITIONS PRECEDENT

Section 6.1 Conditions Precedent to Seller's Performance.

Seller's performance of its obligations hereunder are conditioned upon delivery by the Trustee to Seller of an opinion of counsel to the Trustee, in substantially the form of Exhibit C.

Section 6.2 Conditions Precedent to Trustee's Performance.

The Trustee's performance of its obligations hereunder are conditioned upon satisfaction of the following conditions, each of which shall be deemed satisfied upon the execution and delivery of this Agreement:

(a) delivery by Seller to the Trustee of an opinion of outside counsel to Seller in substantially the form of Exhibit D; and

(b) payment by Seller to the Trustee for the account of Port of the Fee Amount required to be paid upon the Settlement Date.

SECTION VII. DEFAULTS; TERMINATION

Section 7.1 Failure to Purchase.

If the Trustee shall fail to purchase the Qualified Government Obligations delivered pursuant to the terms of this Agreement by the Seller or the Qualified Dealer at the Maturity Amount thereof on any Delivery Date (or on any later date permitted under this Agreement) upon due tender of such Qualified Government Obligations in accordance with the provisions of this Agreement, and such failure to purchase the Qualified Government Obligations shall continue for a period of five (5) Business Days after written notice of such failure is given to the Trustee and the Port by the Seller, the Seller shall have the right to (i) resell to any other third party purchaser in an arm's length transaction, at then-current fair market value, all of the Qualified Government Obligations for the relevant Delivery Date which have not theretofore been purchased by the Trustee in accordance with Section 7.2, (ii) tender Qualified Government Obligations to the Trustee for purchase on any subsequent Business Day prior to the Maturity Date relating to such delivery and purchase, (iii) make demand for payment of damages under Section 7.2 or (iv) if permitted, terminate this Agreement as specified in Sections 7.2, 7.3, 7.4 and 7.5.

Section 7.2 Effect of Failure to Purchase.

(a) If the failure to purchase the Qualified Government Obligations is a result of the gross negligence or willful misconduct of the Trustee, the Trustee shall pay the Seller, as gross liquidated damages and not as a penalty, on demand, an amount equal to interest on the Maturity Amount of the Qualified Government Obligations delivered by the Seller or the Qualified Dealer at a rate equal to the Default Rate for the period from the date on which such purchase was due until the date the Trustee

actually purchases such Qualified Government Obligations (if it so purchases such Securities) or the Maturity Date relating to such failed purchase, whichever is sooner.

(b) Notwithstanding anything herein to the contrary, (1) if the Trustee fails to apply any funds in the Fund to purchase Qualified Government Obligations in accordance with this Agreement or (2) if on any Delivery Date the Available Amount is less than the Notional Amount, the Trustee shall pay the Seller, the sum of (w) interest on the Maturity Amount of the Qualified Government Obligations which the Seller tendered delivery for, but were not purchased by, the Trustee for each day from and including the Delivery Date thereof to but excluding the date on which such securities are resold to a third-party or to the Trustee, and (x) the excess, if any, of the Maturity Amount of such Qualified Government Obligations over the amount received by the Seller upon the resale of the securities (the "Shortfall Amount"). For purposes of clause (w) interest shall accrue at the Default Rate. Seller shall diligently pursue the resale of the Qualified Government Obligations. Seller shall use its best efforts to obtain at least three bids and shall sell the securities to the highest bidder.

Section 7.3 Default by Seller

If any of the following events occur:

(a) the Seller fails to pay when due the Fee Amount;

(b) the Seller breaches any other material covenant or agreement of the Seller contained herein and such breach continues for a period of thirty (30) calendar days after notice of such breach is given to the Seller by the Trustee;

(c) the Seller becomes Insolvent;

(d) any representation or warranty of the Seller contained in this Agreement proves to have been incorrect, false or misleading in a material respect as of the date on which it was made;

(e) the legal opinion of the Seller is rendered incorrect as a result of a change in law or regulation or any published court decision having a material adverse impact on the Port, and a substitute legal opinion, reasonably satisfactory to the Port, is not delivered within thirty (30) calendar days after notice of such occurrence is provided to the Seller by the Trustee: or

(f) the Seller is not a Qualified Financial Institution then, in each such case, the Trustee may, at its option, do any of the following:

(i) terminate this Agreement, provided that the Termination Value, if payable to Trustee, shall be immediately due and payable by Seller; and if payable to Seller, shall be zero; or

(ii) leave this Agreement in force and effect and pursue any other remedy available to the Trustee at law or in equity, including a suit for damages or specific performance.

Section 7.4 Trustee Events of Default.

If any of the following events occur:

(a) the Trustee breaches any covenant or agreement of the Trustee contained herein and such breach continues for a period thirty (30) calendar days after written notice of such breach is given to the Trustee and the Port by the Seller; or

(b) any representation or warranty of the Trustee contained in this Agreement proves to have been incorrect, false or misleading in any material respect as of the date on which it was made;

then, in each such case in addition to the remedies provided in Section 7.2, the Seller may, at its option, elect to terminate this Agreement, provided that the Termination Value shall be paid to the Trustee by the Seller, or to the Seller by the Trustee, as applicable.

Anything herein to the contrary notwithstanding, prior to making any election to terminate this Agreement due to any event of default described in clause (a) or (b) above, Seller shall provide Port with written notice of its intention to terminate this Agreement, and an opportunity to cure such default within ninety (90) days of such notice, including but not limited to, by substituting the Trustee, performing the duties of the Trustee and/or taking such other action as Port deems necessary or appropriate. If the Port cures the default within the 90-day period, this Agreement shall not be subject to termination at the option of the Seller under clause (i) above.

Section 7.5 Optional Termination by Port.

At the direction of the Port, the Trustee may terminate this Agreement in its entirety or with respect to a portion of the Notional Amount at its option at any time upon ten (10) days written notice to the Seller. In the event of such termination, the Termination Value shall be payable by Port to Seller or Seller to Port, as applicable. Immediately upon the payment of the Termination Value, this Agreement shall be deemed to have terminated in full or with respect to a portion of the Notional Amount, if applicable. If the termination of the Agreement would result in the payment of the Termination Value to the Seller, the Trustee shall not terminate this Agreement unless the Port has first certified that there is a valid appropriation from which the expenditure may be made for the payment of the Termination Value.

Section 7.6 Limitations on Port's Financial Obligation

Notwithstanding anything herein to the contrary, any amounts payable by the Trustee (including, without limitation, payment of the Termination Value) under this Agreement shall be payable solely from the Net Revenues in accordance with priority set forth in the Indenture and agreements pursuant to which the Debt Obligations were issued. The City and County of San Francisco shall not be required to advance any moneys derived from the proceeds of any taxes levied or collected by the City and County of San Francisco or from any source other than Net Revenues for the payment of any obligations of the Port hereunder. The General Fund and other enterprise funds of the City and County of San Francisco are not liable, and the credit and taxing power of the City and County of San Francisco is not pledged or otherwise available, to pay any amounts due from the Port hereunder. Neither the Seller nor the Trustee shall have the right to compel the exercise of the taxing power of the City and County of San Francisco or the forfeiture of any Trustee or Port or City and County of San Francisco property. The obligations of the

Port hereunder shall not be a debt of the City and County of San Francisco, nor have a legal or equitable pledge, charge, lien or encumbrance upon any property or funds of the City and County of San Francisco or any of its income or revenues other than the Net Revenues.

Section 7.7 Port Obligations Subject to Appropriation.

Notwithstanding any other provision of this Agreement to the contrary, there shall be no obligation for the payment of the Termination Value by the Port under this Agreement unless the Port first obtains a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. The Port shall have no obligation to make appropriations for the payment of the Termination Value hereunder. If the Port does not appropriate, the unappropriated amount of Termination Value shall not be extinguished. Notwithstanding the provisions of this Section 7.7, Seller may exercise any and all rights otherwise granted to it by law. **THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.**

Section 7.8 Limited Rights Against the Fund.

Seller shall not have any right to any amounts held in the Fund except as expressly provided herein upon the delivery of a Qualified Eligible Security in accordance with this Agreement. Seller acknowledges and agrees that it has no lien upon or claim against the securities and amounts held in the Fund.

Section 7.9 No Waiver; Remedies Cumulative.

No failure or delay on Seller's or Trustee's part in exercising any right or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof of the exercise of any other right or remedy. The rights and remedies of the Seller and Trustee hereunder are cumulative and not exclusive to any rights or remedies provided by law, this Agreement, or otherwise. None of the terms or provisions of this Agreement may be waived, modified or amended except in writing duly signed by the Trustee and Seller.

SECTION VIII. THE TRUSTEE

Section 8.1 Acceptance by Trustee.

By execution and delivery of this Agreement, the Trustee accepts its duties and obligations hereunder.

Section 8.2 Liability of the Trustee; Consultation with Legal Counsel.

(a) The Trustee shall not be liable to Seller for any action taken or neglected to be taken in performing or attempting to perform its obligations hereunder or preserving or seeking to preserve the funds it maintains under the Indenture or to purchase the Qualified Government Obligations tendered pursuant to this Agreement, except for actions arising from its gross negligence or willful misconduct.

(b) The Trustee may consult with its counsel or other counsel satisfactory to it with respect to any question relating to its duties or responsibilities hereunder or otherwise in connection herewith and, except as expressly provided herein, shall not be liable for any action taken, suffered, or omitted by the Trustee in good faith upon the advice of such counsel. The Trustee may act through its officers, employees, agents and attorneys.

Section 8.3 Payment Obligations of Trustee.

The Trustee's payment obligations for Qualified Government Obligations under Section II shall be paid solely from funds available under the Indenture in the Fund, as applicable.

Section 8.4 Payment of Trustee Fees.

Except as hereinafter provided, Seller has no liability or responsibility for payment of the Trustee's fees or expenses for its services hereunder, including any such fees or expenses arising out of or in connection with the liquidation of the Qualified Government Obligations. If Trustee is required to invest any Available Amount because the Seller or Qualified Dealer failed to deliver the Qualified Government Obligations on a timely basis, the Seller shall pay the Trustee charges incurred by the Port for the investment of the Available Amount in overnight securities.

Section 8.5 Port and Trustee Cooperation.

(a) The Trustee shall not act in contravention of its obligations hereunder or invest amounts in the Fund other than pursuant to this Agreement.

(b) The Trustee shall not, nor shall the Port direct the Trustee to, make any payments or distributions from the Fund other than payments or distributions (i) to pay principal of, redemption premium and interest on the Bonds, and any other payments required by the Indenture, and (ii) as required by this Agreement and in accordance with the Indenture.

Section 8.6 Successor Trustee.

If the Trustee shall resign or be discharged from its duties and obligations under the Indenture, the Port shall appoint a successor Trustee pursuant to the terms of the Indenture.

Section 8.7 Trustee Capacity.

Seller acknowledges that Trustee is entering into this Agreement at the direction of the Port, solely in its capacity pursuant to the Indenture. All references herein to the Trustee refer solely to such capacity.

SECTION IX. MISCELLANEOUS

Section 9.1 Notices.

All notices, demands or other communications hereunder shall be given or made in writing and shall be delivered personally, or sent by certified or registered mail, postage prepaid, return receipt requested, or overnight delivery service, telex or telecopy to the party to whom they are directed at the following addressees, or at such other address as shall have been later specified in written notice by such party to all other parties:

To Seller:

Attention:
Telephone:
Telecopy:
Account Name and Number:
Bank Name:
ABA#:
Account Name:
Account #:
Further Credit to:#:

To Qualified Dealer:

Attention:
Telephone:
Telecopy:
Account Name and Number:
Bank Name:
ABA#:
Account Name:
Account #:
Further Credit to:#:

To the Trustee:

Attention:
Telephone:
Telecopy:
Account Name and Number:
Bank Name:
ABA#:
Account Name:
Account #:
Further Credit to:#:

For Delivery of Book Entry Qualified Government Obligations:

Federal Reserve Bank of New York
ABA #021-200-025

First Fidelity NWK/Trust

[To the Port:

Attention:
Telephone:
Telecopy:
Account Name and Number:
Bank Name:
ABA#:
Account Name:
Account #:
Further Credit to:#:]

Any notice, demand or other communication given in a manner prescribed in this Section shall be deemed to have been delivered upon receipt.

Section 9.2 Binding Effect; Assignment.

This Agreement shall be binding upon the Trustee and Seller and upon their respective permitted successors and transferees. The Seller shall not assign any of its rights or obligations under this Agreement without first obtaining the prior written consent of both the Port and the Trustee, which consent can be withheld in their sole and absolute discretion. Any unconsented assignment shall be void and the Trustee shall terminate this Agreement upon the written request of the Port. The Trustee, as such Trustee, may be substituted from time to time pursuant to the Indenture.

Section 9.3 Limitation.

Nothing expressed or implied herein is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto, any right, remedy or claim by reason of this Agreement or any term hereof, and all terms contained herein shall be for the sole and exclusive benefit of the parties hereto, and their successors and permitted transferees.

Section 9.4 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to conflict of law principles.

Section 9.5 Counterparts.

This Agreement may be executed in one or more counterparts and when each party hereto has executed at least one counterpart, this Agreement shall become binding on all parties and such counterparts shall be deemed to be one and the same document.

Section 9.6 Severability.

If one or more provisions of this Agreement or the applicability of any such provisions to any set of circumstances shall be determined to be invalid or ineffective for any reason, such determination shall not affect the validity and enforceability of the remaining provisions or the applicability of the same provisions or any of the remaining provisions to other circumstances.

Section 9.7 Amendments, Changes and Modifications.

This Agreement may be amended or any of its terms modified only by a written agreement authorized, executed and delivered by each of the parties hereto.

Section 9.8 Appropriation.

This section shall control against any and all other provisions of this Agreement. If, for any budgetary period the Port fails to appropriate sufficient funds for the payment of any amounts due under this Agreement, the Trustee shall have the right to terminate this Agreement at the direction of the Port.

Section 9.10 Audit and Inspection of Records.

The Seller agrees that the Trustee may audit, inspect and copy, at all reasonable hours, the Seller's books and records as they pertain to this Agreement. Except as otherwise provided by law, the Trustee will not release or divulge any proprietary information derived from such audit or inspection to third parties without the approval of the Seller. All such books and records shall be maintained and/or made available for five (5) years after the end of the Agreement.

IN WITNESS WHEREOF, the Trustee and Seller have caused this Forward Purchase Agreement to be executed by their respective duly authorized officers, all as of the date and year first above written.

SELLER

By:_____
Name:
Title:

TRUSTEE

By:_____
Name:
Title:

EXHIBIT A

Cash Flow Schedule

Delivery Date	Maturity Date		Available Amount	Bond Pmt Date
7/2/96	12/27/96	$	5,361,000.00	1/1/97
1/2/97	6/26/97	$	5,361,000.00	7/1/97
7/2/97	12/27/97	$	5,361,000.00	1/1/98
1/2/98	6/26/98	$	5,361,000.00	7/1/98
7/2/98	12/27/98	$	5,361,000.00	1/1/99
1/2/99	6/26/99	$	5,361,000.00	7/1/99
7/2/99	12/27/99	$	5,361,000.00	1/1/00
1/2/00	6/26/00	$	5,361,000.00	7/1/00
7/2/00	12/27/00	$	5,361,000.00	1/1/01
1/2/01	6/26/01	$	5,361,000.00	7/1/01
7/2/01	12/27/01	$	5,361,000.00	1/1/02
1/2/02	6/26/02	$	5,361,000.00	7/1/02
7/2/02	12/27/02	$	5,361,000.00	1/1/03
1/2/03	6/26/03	$	5,361,000.00	7/1/03
7/2/03	12/27/03	$	5,361,000.00	1/1/04
1/2/04	6/26/04	$	5,361,000.00	7/1/04
7/2/04	12/27/04	$	5,361,000.00	1/1/05
1/2/05	6/26/05	$	5,361,000.00	7/1/05
7/2/05	12/27/05	$	5,361,000.00	1/1/06
1/2/06	6/26/06	$	5,361,000.00	7/1/06
7/2/06	12/27/06	$	5,361,000.00	1/1/07
1/2/07	6/26/07	$	5,361,000.00	7/1/07
7/2/07	12/27/07	$	5,361,000.00	1/1/08
1/2/08	6/26/08	$	5,361,000.00	7/1/08
7/2/08	12/27/08	$	5,361,000.00	1/1/09
1/2/09	6/26/09	$	5,361,000.00	7/1/09

EXHIBIT B

Payment Schedule

Delivery Date	Fee Amount
7/2/96	
1/2/97	
7/2/97	
1/2/98	
7/2/98	
1/2/99	
7/2/99	
1/2/00	
7/2/00	
1/2/01	
7/2/01	
1/2/02	
7/2/02	
1/2/03	
7/2/03	
1/2/04	
7/2/04	
1/2/05	
7/2/05	
1/2/06	
7/2/06	
1/2/07	
7/2/07	
1/2/08	
7/2/08	
1/2/09	

EXHIBIT C

[LETTERHEAD OF COUNSEL TO TRUSTEE]

[Date]

Port Commission of the
City and County of San Francisco
Ferry Building, Room 3100
San Francisco, California 94111

[Name of Seller]

Re: Port Commission of the City and County of San Francisco

Ladies and Gentlemen:

We have acted as counsel for Union Bank, as Trustee (the "Trustee"), in connection with the transactions contemplated by a Forward Purchase Agreement dated as of [Date] (the "Agreement") by and among the Trustee Portand [Name of Seller] ("Seller") relating to the investment of certain assets held by the Trustee pursuant to _____ of the Port, as amended and supplemented in connection with the issuance of various series of bonds (the "Indenture"). Unless otherwise defined herein or unless the context otherwise requires, terms defined in the Indenture shall have the same meanings herein.

We have examined an original or copy of the Indenture and the Agreement. In addition, we have examined such records, documents, instruments, certificates of public officials and of the Trustee, and considered such questions of law as we have deemed necessary for the purpose of rendering the opinions set forth herein. We have assumed the genuineness of all signatures other than those of the Trustee and the authenticity of all items submitted to us as originals and the conformity with originals of all items submitted to us as copies. In making our examination of the Indenture and the Agreement, we have assumed that each party to such document other than the Trustee has the power to enter into and perform its obligations thereunder, has duly authorized, executed and delivered such document, and that such document constitutes the legal, valid and binding obligations of such party. As to the genuineness of the Trustee's signature and the authority of any person to execute and deliver any document on the Trustee's behalf, we have relied solely on an incumbency certificate received from the Trustee and have made no independent investigation as to the accuracy of such certificate.

We express no opinion as to the perfection or priority of any security interest or lien created by the Indenture or the Agreement or as to the effect of any federal or state securities laws.

Our opinion in paragraph 1 below is based solely upon certificates of public officials of the United States and officers of the Trustee. We have made no independent investigation as to whether those certificates are accurate or complete.

The opinions hereinafter expressed are subject to the following further qualifications:

(a) The effect of bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws relating to or affecting the rights of creditors generally, including, without limitation, laws relating to fraudulent transfers or conveyances, preferences and equitable subordination.

(b) Limitations imposed by general principles of equity upon the availability of equitable remedies or the enforcement of provisions of the Indenture, and the effect of judicial decisions which have held that certain provisions are unenforceable where their enforcement would violate the implied covenant of good faith and fair dealing, or would be commercially unreasonable.

Based upon and subject to the foregoing, we are of the opinion that:

1. The Trustee is a national banking association with trust powers, duly created and lawfully existing under the laws of the United States of America.

2. The Trustee has all necessary legal right, power and authority to enter into the Agreement.

3. The Agreement has been duly executed and delivered by the Trustee and constitutes the valid and binding agreement of the Trustee, enforceable against the Trustee in accordance with its terms.

4. The execution and delivery of the Agreement by the Trustee and the performance of the Trustee's obligations thereunder do not constitute or result in a breach or violation of the Trustee's article of association, its bylaws or the Indenture.

We express no opinion as to matters governed by any laws other than the substantive laws of the State of California (without reference to its conflicts of laws rules) and federal laws of the United States of America which are in effect on the date hereof.

This opinion is solely for your benefit and may not be relied on by, nor may copies be delivered to, any other person without prior written consent.

Respectfully submitted,

EXHIBIT D

(LETTERHEAD OF OUTSIDE COUNSEL TO SELLER)

_____,199____

Port of San Francisco
Ferry Building, Suite 3100
San Francisco, CA 94111

Union Bank
350 California Street, Suite 1150
San Francisco, CA 94104

Re: Forward Purchase Agreement, dated _____, 1996, for the Port Commission of the City and County of San Francisco Revenue Refunding Bonds, Series 1994

Ladies and Gentlemen:

We have acted as counsel to_____[Seller]_____in connection with its execution and delivery of the Forward Purchase Agreement, dated as of _____, 1995 (the "Forward Purchase Agreement"), by and between Union Bank, as Trustee ("Trustee") and Seller. Capitalized terms used herein and not defined herein have the respective meaning given to them in the Forward Purchase Agreement.

In rendering this opinion, we have examined, among other things, copies of the Forward Purchase Agreement and the Indenture.

In connection with the foregoing, we have also examined originals or copies satisfactory to us of all such corporate records, agreements, certificates and other documents as we have deemed relevant and necessary as a basis for the opinions hereinafter expressed. In such examination we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity with the original documents of all documents submitted to us as copies.

In giving the opinions expressed below we do not purport to be expert in or generally familiar with or qualified to express legal opinions based on the laws of any jurisdiction other than federal laws, the laws of the State of California and the General Corporation Law of the State of California and opinions expressed herein are limited to federal law, the laws of the State of California and the General Corporation Law of the State of California.

Based upon the foregoing examination and review, we are of the opinion that:

(i) [seller] has full legal right, power and authority to enter into the Forward Purchase Agreement;

(ii) The Forward Purchase Agreement has been duly authorized, executed and delivered by [seller];

(iii) The Forward Purchase Agreement is a legal, valid and binding obligation of [seller] enforceable against it in accordance with the terms thereof, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity); and

(iv) In the event of a bankruptcy, receivership. conservatorship, liquidation or other applicable insolvency proceeding of which the Seller is the subject, under the laws of the applicable jurisdiction(s), (a) neither the Qualified Government Obligations delivered to the Trustee nor the other funds on deposit in the Reserve Fund would constitute property of the estate of the Seller in such proceeding, (b) neither the liquidation of the Qualified Government Obligations nor payments to the Owners of the Bonds from amounts in the Reserve Fund including proceeds from the sale of Qualified Government Obligations, would be subject to a stay (other than a temporary stay), (c) payments to the Owners of the Bonds from amounts in the Reserve Fund, including proceeds from the sale of Qualified Government Obligations, would not be voidable in such proceeding, [and (d) if the Seller is an insured depository institution, the Agreement complies with the requirements of Section 13(e) of the Federal Deposit Insurance Act, as amended (the "FDIA") and is a "qualified financial contract" within the meaning of Section 11(e) of FDIA.]

We are furnishing this opinion to you solely for your benefit and no other person is entitled to rely hereon. This opinion is not to be used, circulated, quoted or otherwise referred to for any other purpose.

Very truly yours,

EXHIBIT E

FORWARD PURCHASE AGREEMENT
NOTICE OF DELIVERY

[Date of Notice]

[Union Bank]

[Port of San Francisco]

Security will be delivered by Seller:

[account information as provided in Section ___ of Forward Purchase Agreement]

For purchase from funds in [Reserve Fund]

Date of Delivery:

Security	Interest (if any)	Maturity Date	CUSIP	Amount Due at Maturity ("Maturity Amount")

Purchase Price (same as Maturity Amount)

Market Value	=$[ ]
Differential	=$[ ]

Payment instructions

Purchase Price to be paid follows:

[Account Information]

The undersigned hereby certifies that the foregoing securities are Government Obligations as defined in the Forward Purchase Agreement. The undersigned hereby further certifies that all the foregoing securities and the interest thereon is the sole property of [NAME OF SELLER OR QUALIFIED DEALER].

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

June 11, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director DPB

SUBJECT: Approval of travel to the Port of Tacoma for one Port representative, in accordance with the Port's Fiscal Year 1995-96 budget

DIRECTOR'S RECOMMENDATION: APPROVE THE TRAVEL AS BUDGETED

One of the niche cargo opportunities still available for the Port of San Francisco is the project cargo market, covering the shipment of large amounts of machinery, construction materials and other items used for infrastructure projects in foreign countries. The Port of Tacoma is one of the most successful ports on the West Coast to attract this type of cargo. They have developed a complete marketing program enabling them to locate the principals of this cargo before a routing decision has been made. One of our marketing representatives will travel to the Port of Tacoma on June 26, 1996 to review their marketing information system for project cargo; and to meet and discuss ideas with the marketing staff on developing this type of program at the Port of San Francisco.

We have budgeted the following amounts for our current fiscal year to cover this activity:

Airfare	$231.00
Hotel	110.00
Meals	40.00
Car Rental	95.00
TOTAL	**$476.00**

Prepared by: Carolyn Macmillan
Marketing Manager

THIS PRINT COVERS CALENDAR ITEM NO. 9A

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

Resolution No. 96-55

WHEREAS, the Executive Director is requesting authorization for one representative to travel to the Port of Tacoma in Tacoma, Washington; and

WHEREAS, the purpose of this trip is to develop additional resources for attracting cargo business to the Port; and

WHEREAS, the cost of this trip have been included in the Port Commission's Fiscal Year 1995-96 budget; and be it

RESOLVED, that the Port Commission hereby approves this travel request.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 11, 1996.

_____
Secretary

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE MEETING
JUNE 11, 1996

1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 4:15 p.m. The following Commissioners were present: Michael Hardeman, Preston Cook, James Herman and Denise McCarthy. Commissioner Frankie Lee was not present.

Commissioner Hardeman welcomed and introduced Commissioner Denise McCarthy. Commissioner McCarthy remarked that she's pleased to have gotten this appointment. She mentioned that she has recently served on the Waterfront Plan Advisory Board and the Pier 45 Citizens Advisory Committee before that. She looks forward to finding out more about the workings of the Port.

2. APPROVAL OF MINUTES - May 28, 1996

Commissioner Cook requested that under his remarks, the word "respective" be changed to "respected" on page 2 of the minutes.

ACTION: Commissioner Cook moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the minutes of the meeting, as amended, were adopted.

3. EXECUTIVE

A. Executive Director's Report: Mr. Bouey reported the following:

1) Herb Caen Way... there has been a request to change the name to Herb Caen Promenade by the Mayor, Charlotte Swig and Herb Caen. Due to the Sunshine Ordinance, this item will be brought back to the Commission at the next meeting. He, however, indicated to the Mayor that he did not think that the Commission would object to the name change from Herb Caen Way... to Herb Caen Promenade. Herb Caen Day will commence at 11:30 a.m. on Friday, June 14, 1996.

2) Saturday, June 15 from 10 a.m. to 10 p.m. at Pier 45 will be Festa Filipina.

3) Sunday, June 16 at 9:30 a.m., on the Herb Caen Promenade, will be the Dragon Boat Races.

4. LEGISLATIVE

5. TENANT & MARITIME SERVICES

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6. FACILITIES & OPERATIONS

7. PLANNING & DEVELOPMENT

8. ADMINISTRATION

A. Approval of Bid and Award of Revenue Bond Reserve Fund Investment Contract. (Resolution No. 96-54)

Mr. Bouey indicated that, about two years ago, the Port successfully refunded its bonds in the amount of $53 million+. As a requirement of selling the bonds, a reserve of a little over $5.3 million or 10% of the bond proceeds was required. The proceeds were invested but through IRS arbitrage regulations the Port is not allowed to capture a return of more than 5.63%. The market has been such that we have not reached the 5.63% maximum amount. What is proposed today is a forward purchase agreement. By entering into this agreement, the Port is guaranteed to receive 5.63% return for the remainder of this reserve or at least until the first call date, which is 2004, or the final maturity date, which is 2009. The advantages are that we lock in the higher rate and it allows us to earn the maximum amount allowed by the IRS. Unlike long-term contracts, there is no bankruptcy risk to the Port. The disadvantages are the provider may not continue to the life of the contract and the Port could also be terminated by the provider. In weighing the advantages and disadvantages, it is certainly in our interest to earn the maximum income possible. Mr. Bouey mentioned that Mr. Ben Kutnick, Director of Administration and Mr. Peter Miller, our financial advisor, are in attendance to answer any questions.

Commissioner Cook inquired if this is a lock-in rate for a period of years. Mr. Kutnick replied to the affirmative and reiterated Mr. Bouey's comments regarding the advantages and disadvantages. He added that in the agreement, we have retained the right to terminate at will.

Commissioner Cook inquired about the provider. Mr. Kutnick replied that there is no provider at this time. Over the last couple of years, the Port's trustee invested in treasuries of U.S. government.

Commissioner Cook inquired about the provider's fees. Mr. Kutnick replied that we do not pay the provider any fees directly. Their profit comes from what they anticipate making over the life of the market by being able to invest at a higher market.

Commissioner Cook inquired of the interest earned. Mr. Kutnick replied that a monthly check of a little over $300,000 a year goes to the Port's operating budget. Mr. Kutnick added that in addition to the reserve fund, there are principal & interest accounts with the trustee that the Port is not proposing as part of the purchase agreement.

Commissioner McCarthy inquired about the prepayment or lump sum payment and wondered if that was the amount that would have been the generated interest that the Port can get in one lump sum. Ms. Monique Moyer replied that the Port can either get the benefit up front or get the interest over time. Mr. Kutnick indicated that the Port takes it over time because $300,000 a year in our operating budget is still a significant amount of money that we have to otherwise make up.

ACTION: Commissioner Cook moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

9. CONSENT CALENDAR

A. Approval of travel for one Port representative to travel to the Port of Tacoma on June 25-26, 1996 for cargo marketing research, in accordance with the Port's Fiscal Year 1995-96 budget. (Resolution No. 96-55)

ACTION: Commissioner Cook moved approval; Commissioner Herman seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

10. NEW BUSINESS / PUBLIC COMMENT

Commissioner McCarthy inquired about what had transpired after the Hyde Street Harbor Draft EIR hearing. Mr. Bouey responded that the Department of Planning had the hearing on the Draft EIR for the Hyde Street Harbor and Pier 45, Sheds A & C. There was quite a bit of comment from members of the Dolphin and South end Swimming Clubs. Their primary emphasis was one of water quality and better management of the facilities. He had indicated to Commissioner McCarthy that he would meet with Port staff to devise a strategy and then meet with the Swim Club. From listening to the tone of their comments, they appeared to be reasonable and he believes the issues can be worked out. After he meets with staff, a meeting will be scheduled with the Dolphin and South End Swimming Clubs. Commissioner Herman inquired if adjustments can be made to meet the objectives of the Swimming Clubs. Mr. Bouey reiterated that staff intends to work with the Swimming Clubs. Mr. Bouey added that the Hyde Street Pier is necessary if we are to continue with the improvements instituted in the last couple of years to help turn around the fishing industry. He is convinced that the water quality is going to improve as well. Furthermore, pump stations and adequate restrooms will be provided. Commissioner Herman stated that he was impressed with the constructive testimony of those who found the flaws in the Draft EIR and hopes that we will be able to achieve the objectives they enumerated.

Commissioner Hardeman stated that last month Commissioner O'Neill remarked that he would be writing to the Commissioners and would like it incorporated into the minutes of the meeting. Mr. Bouey mentioned that the Commission Secretary will circulate a copy of the letter to the Commission. Commissioner Hardeman also mentioned that Mr. Bouey had indicated that appropriate commendation for Commissioner O'Neill will be prepared.

Mr. Bouey replied that the commendation will appear on the next Commission agenda. Commissioner Hardeman thanked Commissioner O'Neill for his years of service at the Port. He added that he was dedicated and hard working.

11. EXECUTIVE SESSION

At 4:45 p.m., the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following matters:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President
Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS

1) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

The City Attorney is of the opinion that based on existing facts and circumstances, discussion of existing and anticipated litigation matters in open session would prejudice the legal position of the Port. An executive session is specifically authorized under California Government Code Section 54956.9(b)(1)(c).

At 5:30 p.m., Commissioners Hardeman, Cook and McCarthy returned from executive session and convened in public session. Legal Counsel Julie Van Nostern announced that Commissioner Herman excused himself from executive session to pick up some documents.

ACTION: Commissioner Cook moved approval to not disclose any information discussed in the executive session. Commissioner McCarthy seconded the motion. All of the Commissioners were in favor.

The meeting was adjourned at 5:32 p.m.

Imelda Kwan
Commission Secretary

SAN FRANCISCO PORT COMMISSION

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JUN 24 1996

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REGULAR MEETING
4:00 P.M., TUESDAY, JUNE 25, 1996
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - June 11, 1996

3. **EXECUTIVE**

   A. Executive Director's Report

   B. Presentation by the Redevelopment Agency and Port staff on the Draft Treasure Island Naval Station Reuse Plan.

   C. Presentation concerning the Draft Waterfront Land Use Plan: (1) Urban Design/Public Access Guidelines and (2) Draft conforming amendments to the San Francisco General Plan and Planning Code.

   D. Resolution awarding Commissioner Francis J. O'Neill the Order of Maritime Merit, with the Rank of Commander. (Resolution No. 96-65)

   E. Executive Director 1996/97 Compensation; Waive Salary Increase; Approve $675.00 in Benefits (Resolution No. 96-58)

4. **LEGISLATIVE**

5. **TENANT & MARITIME SERVICES**

   A. Approval of percentage rental adjustment for Alioto's #8 and Alioto Expo Restaurants at Fisherman's Wharf. (Resolution No. 96-69)

   B. Approval of lease with Breda Transportation, Inc. at Transit Shed D, Pier 80, (at foot of Cesar Chavez Street) and approval of co-termination of existing Lease No.L-11996 with Breda Transportation Inc. (Resolution No. 96-66)

   C. Approval of termination of Lease with Service Engineering Company for the ship repair facility at Pier 50, Terry Francois Blvd. at Mission Rock Street. (Resolution No. 96-59)

   D. Consent to assignment of leases at Piers 41 and 43½ in Fisherman's Wharf from Red & White Fleet, Inc. to Blue & Gold Fleet, Limited Partnership.(Resolution No.96-70)

6. FACILITIES & OPERATIONS

A. Authorization to reject all bids for Construction Contract No. 2594, "Ferry Building Seismic Repair Stage II," and receive further authorization to readvertise for bids. (Resolution No. 96-67)

B. Authorization to advertise for bids for Construction Contract No. 2620, "1996/97 Dredging." (Resolution No. 96-68)

7. PLANNING & DEVELOPMENT

A. Support the Public Transportation Commission and recommend to the City Planning Commission, the Board of Supervisors and the Mayor approval of an amendment to the San Francisco Planning Code, Article 6, Section 603, to allow advertising associated with transit shelters on the Embarcadero. (Resolution No. 96-60)

B. Approval of Third Amendment to Advertising Transit Shelter Agreement with Combined Communications Corporation (GANNETT), City and County of San Francisco, by and through its Public Transportation Commission and Port of San Francisco, regarding Public Transit Shelters located on Port property. (Resolution No. 96-61)

8. ADMINISTRATION

A. Approval of the 1996/1997 Capital Plan. (Resolution No. 96-56)

9. CONSENT CALENDAR

A. Approval of travel for one Port representative to attend the Transportation Research Board's 21st Annual Summer Conference in Long Beach, CA on July 16-19, 1996, in accordance with the Port's Fiscal Year 1996/97 budget. (Resolution No. 96-57)

B. Authorizing the Executive Director to execute amendments to the funding agreements for public access improvements at Pier 43, with Pier 39/Underwater World and the California State Coastal Conservancy. (Resolution Nos. 96-63 and 96- 64)

C. Authorization for the Executive Director to apply for and accept $1,487,500 in Interstate Transfer Concept Program Funds (Title 23) from the U.S. Department of Transportation; and to apply for a reprogramming of $408,461 in existing Proposition 116 Bond funds awarded to the Port for the Downtown Ferry Terminal Project; and to apply for and accept $700,000 in additional funds from the California Transportation Commission for construction of the South Ferry Landing Breakwater. (Resolution No. 96-62)

10. NEW BUSINESS / PUBLIC COMMENT

11. EXECUTIVE SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS

1) Petuya v. CCSF; San Francisco Superior Court No. 972-961; pursuant to subdivision (a) of California Government Code Section 54956.9

2) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

The City Attorney is of the opinion that based on existing facts and circumstances, discussion of existing and anticipated litigation matters in open session would prejudice the legal position of the Port. An executive session is specifically authorized under California Government Code Section 54956.9(b)(1)(c).

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. ADJOURNMENT

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary.

PORT OF SAN FRANCISCO

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MEMORANDUM

June 25, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James R. Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Presentation by Redevelopment Agency and Port staff on the Draft Treasure Island Naval Station Reuse Plan

DIRECTORS RECOMMENDATION: Informational presentation only; no action required.

The purpose of this item is to brief the Commission on the current status of the Draft Treasure Island Naval Station Reuse Plan.

Background

Naval facilities at Treasure Island and Yerba Buena Island, which are entirely within the boundaries of the City and County of San Francisco, have been slated for military closure in 1997. Prior to closure, a "Reuse Plan" must be developed to help guide decisions regarding disposition and transfer of the property, and which sets forth the various steps for achieving reuse and recovery.

THIS PRINT COVERS CALENDAR ITEM NO **3B**

A "Draft Reuse Plan" for Treasure Island and Yerba Buena Island has been prepared by ROMA Design Group working together with the San Francisco City Planning Department, the San Francisco Redevelopment Agency and the Port of San Francisco. After extensive public participation the Treasure Island Citizens Reuse Committee (CRC) has unanimously endorsed the Draft Reuse Plan. The plan must now be reviewed by the Mayor, the Planning Commission, the Redevelopment Commission, the Port Commission, and the Board of Supervisors.

In the next month several public meetings will be held on the Draft Reuse Plan before it is submitted to the Department of Defense and the Department of Housing and Urban Development for review. Endorsement of the plan by the San Francisco Board of Supervisors will trigger the environmental review process under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). An Environmental Impact Statement/Report (EIS/EIR) will be prepared during the course of the next year.

Plan Summary

One of the primary goals of the Draft Reuse Plan is the establishment of a number of recreational opportunities including a major activity center such as a theme park. This would function as an economic magnet that would attract visitors and create job opportunities. This focusing element of the plan is intended to be reminiscent of the festive atmosphere of the 1939 Golden Gate International Exposition, which was held on Treasure Island.

The plan also calls for other revenue generating land uses such as a sports facility, a convention center, hotels, restaurants and other retail. Film related industry will continue to be encouraged on Treasure Island because of the positive economic impacts that would result. In addition to creating revenue generating attractions, the Draft Reuse Plan also emphasizes the public aspects of open and space and shoreline resources. This enhancement program will be accomplished in a manner that maximizes the unique setting and spectacular views at Treasure Island and Yerba Buena Island.

The Draft Reuse Plan also addresses transportation issues, both to and on the Island itself. In accordance with the overall goal of accessibility, pedestrian and public transit modes will be emphasized. Ferry service will be provided to the Island and will be made possible with the construction of new ferry terminals. These terminals will allow for efficient service to San Francisco and Oakland, as well as other locations around the Bay. Shuttle services, bike paths and pedestrian oriented development will facilitate circulation within the islands.

The Draft Reuse Plan couples these ideas with an implementation strategy that outlines approaches and options for the various components of reuse including: conveyance and phasing, interim reuse, financing options and fiscal considerations.

There are a number of existing facilities on Treasure Island and Yerba Buena Island that are proposed for immediate reuse including a Job Corps facility, a Coast Guard facility, a fire training facility, a jail/brig, an existing elementary school (currently operated by the San Francisco Unified School District), a child and day care facility and existing housing (to be used for homeless services).

New residential development on Treasure Island and Yerba Buena Island is contemplated as part of a future phase of development. However, there are constraints imposed by the Tidelands Trust and the limited access that currently exists that must be addressed in order for this development to take place.

Finally, the Reuse Plan recognizes that Treasure Island is an irreplaceable resource which could not be recreated in the Bay today. Based on this premise the plan outlines an incremental strategy for the seismic stabilization of the Island based on a development phasing plan over an extended period of time.

Issue for Consideration

Port staff will continue to work with the Redevelopment Agency, the Department of City Planning, the City Attorney's Office and the Mayor's Office to develop the plans, policies and agreements necessary for the conveyance, transfer, management and development of Treasure Island and Yerba Buena Island, and will report back to the Port Commission on this project on a periodic basis.

Submitted By: Sharon Lee Polledri,
Director of Planning and Development

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MEMORANDUM

June 13, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: **Status of Urban Design/Public Access Plan for the Draft Waterfront Land Use Plan and presentation of draft conforming amendments to the San Francisco General Plan and Planning Code to implement the Waterfront Land Use Plan.**

DIRECTOR'S RECOMMENDATION: REVIEW PRESENTATION OF PROGRESS ON URBAN DESIGN/PUBLIC ACCESS PLAN AND DRAFT CONFORMING AMENDMENTS TO THE SAN FRANCISCO GENERAL PLAN AND PLANNING CODE.

I. URBAN DESIGN/PUBLIC ACCESS PLAN

The Draft Waterfront Land Use Plan calls for preparing urban design guidelines for Port property that further define the character of development on the waterfront. The Port is now in the process of preparing an urban design plan that will address design, public access and historic resource issues throughout Port property. The Design Plan will be the implementing tool to express design goals and define specific characteristics or parameters for structures and public improvements as implementation of the Waterfront Plan occurs.

The Urban Design Plan is being prepared jointly by Port staff and the Department of City Planning with advisory assistance from urban designer, John Kriken of Skidmore, Owings, and Merrill. The Design Plan is being guided and reviewed by a technical advisory committee (TAC). The TAC is an eight member committee composed of representatives

from Save The Bay Association, Bay Conservation and Development Commission (BCDC), the Waterfront Plan Advisory Board, American Institute of Architects, American Society of Landscape Architects, SPUR, the Landmarks Preservation Advisory Board, and the Department of City Planning. The plan will be prepared for adoption by the Port Commission, and will be compatible with proposed City policies or coordinated with changes to City policies. The Planning Commission and BCDC also have expressed interest in adopting the design plan if it meets their requirements.

Progress on the Urban Design Plan was last presented to the Port Commission on March 26. Since that time the TAC has completed a comprehensive review by subareas of all property from Pier 70 to Fisherman's Wharf. The Design Review Board of BCDC reviewed the Design Plan in a joint meeting with the TAC on May 15, expressing their support and desire for a comprehensive vision of architectural and public access issues along the waterfront.

The Urban Design Plan is being prepared on several levels: general design objectives that address all of the subareas; design objectives addressing the general needs of individual subareas; and design objectives for each of the three property types -- seawall lots; bulkhead sites; and piers within each subarea. Design objectives are being developed on a preliminary basis and will then be tested for consistency with Port, City Master Plan, and BCDC goals and policies. Economic feasibility, the condition of existing structures, and public acceptance will also be considered prior to completion of the urban design guidelines.

II. DRAFT CONFORMING AMENDMENTS TO THE SAN FRANCISCO GENERAL PLAN AND PLANNING CODE

The Draft Waterfront Land Use Plan does not entirely conform to all the City's existing planning and zoning policies and ordinances. Pursuant to an MOU entered into between the Planning Department and the Port last year, Port and Planning Department staff are working together on proposed revisions and amendments to the City's General Plan, Planning Code and Zoning Map (collectively the City's Planning Documents) so that the Waterfront Land Use Plan and the City's Planning Documents provide consistent direction about the future use of Port property. Earlier this year, the Port entered into a similar MOU and work effort with the Bay Conservation and Development Commission to jointly prepare proposed consistency amendments to BCDC's planning documents on a schedule consistent with the adoption of the Waterfront Plan. The ultimate goal of this comprehensive planning effort is to provide consistent direction to government agencies, developers, and the public about how Port revitalization should unfold.

Port staff has developed, and Planning Department staff has reviewed, draft conforming amendments to City's planning documents for purposes of evaluation in the Waterfront Land Use Plan Environmental Impact Report (EIR), and to establish a starting point for public discussion of how the Waterfront Land Use Plan policies should be incorporated into the City's Planning Documents. The Waterfront Plan Advisory Board has reviewed and commented on these draft conforming amendments. Over the next several months, this entire set of proposed conforming amendments will undergo review in community meetings and public hearings, prior

to being considered for adoption by the Planning Commission and Board of Supervisors. The proposed amendments will therefore be subject to change and refinement in response to further staff review, and public review and comment. In addition, policies related to urban design, public access and historic preservation will be subject to further review when the Port has completed a draft of the Urban Design Plan (including a public access program and historic preservation policies) for the waterfront, as called for in the Waterfront Land Use Plan.

None of the conforming amendments can be adopted until after the completion and certification of the Waterfront Land Use Plan Final EIR. The Draft Environmental Impact Report (EIR) on the Plan was released for public review in May, and the Planning Commission's public hearing on the Draft EIR is scheduled for July 11th. Upon completion of the EIR in late 1996, the Waterfront Land Use Plan can be adopted by the Port Commission. At that time, we anticipate that the Planning Commission and Board of Supervisors will hold final hearings on the proposed amendments to the City's General Plan, Planning Code and Zoning Map to ensure consistency with the Waterfront Land Use Plan.

Prepared By: Dan Hodapp
Urban Design Planner
and
Anne Cook
Manager, Waterfront Land Use Plan

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MEMORANDUM

June 19, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Resolution Awarding Commissioner Francis J. O'Neill the Order of Maritime Merit, with the Rank of Commander

DIRECTOR'S RECOMMENDATION: APPROVE THE AWARD

Commissioner Francis J. O'Neill has served with distinction on the San Francisco Port Commission since his appointment by Mayor Frank Jordan in 1992.

The Port Commission has benefited greatly from his business experience and acumen as President and Chief Executive Officer of Menlo-O'Neill Associates, an investment banking and joint venture firm.

He has provided the Commission with a strong strategic direction and knowledge of civic affairs resulting from his background as co-chair of the Cork Sister City Committee, as program chairman of the San Francisco Rotary Club and as past president and founding member of the Hibernian Newman Club of San Francisco. Commissioner O'Neill has also been involved in the planning and promotion of the San Francisco Fleet Week Celebration.

The Port Commission does hereby express its appreciation, best wishes and sincerest gratitude to Commissioner Francis J. O'Neill. To honor him for invaluable, unselfish and lasting contributions to the Port Commission and the maritime community, staff recommends that he be awarded the Order of Maritime Merit, with the rank of Commander.

Prepared by: Carolyn Macmillan, Marketing Manager

THIS PRINT COVERS CALENDAR ITEM NO. 3D

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-65

WHEREAS, Francis J. O'Neill has served with distinction on the San Francisco Port Commission since his appointment by Mayor Frank Jordan in 1992; and

WHEREAS, The Port Commission has benefited greatly from his business experience and acumen as President and Chief Executive Officer of Menlo-O'Neill Associates, an investment banking and joint venture firm; and

WHEREAS, He has provided the Commission with strong strategic direction and knowledge of civic affairs resulting from his background as co-chair of the Cork Sister City Committee, as program chairman of the San Francisco Rotary Club and as past president and founding member of the Hibernian Newman Club of San Francisco; now, therefore, be it

RESOLVED, The San Francisco Port Commission recognizes Commissioner Francis J. O'Neill's invaluable, unselfish and lasting contribution to the Port Commission by conferring upon him the Order of Maritime Merit, with the rank of Commander.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary

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MEMORANDUM

June 25, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. James Herman
Hon. Preston Cook
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of 1996/97 Executive Director Compensation

DIRECTOR'S RECOMMENDATION: WAIVE SALARY INCREASE; APPROVE $675.00 IN BENEFITS

The Executive Director is not requesting a salary increase in 1996/97. The Executive Director is requesting that this year, instead of using the traditional formula, that his compensation be comparable to Municipal Executive Association members (MEA). MEA represents most City department heads and senior managers.

Charter Section 3.581 (h) grants the Port Commission the exclusive authority to set the compensation (salary and fringe benefits) of the executive director. The history of the Port is to pay the average of the executive directors of other west coast ports. Of the eight ports surveyed, the salary range is significantly higher at six ports, lower at Tacoma an essentially the same at Portland. Using the above historical formula, the salary of the Executive Director would increase by 13%, from $132,624 to $150,090.

The salary of the Executive Director has been increased once in the past four years, 1995/96 by 1.5%.

THIS PRINT COVERS CALENDAR ITEM NO. **3E**

There will be no general salary increase in 1996/97 for City managers, represented by MEA. However, they are receiving additional monies, to be used for benefits, in the amount of $75 per month beginning in October 1996. Salaries may be adjusted, retroactive to July 1, 1996, to reflect the findings of a Classification and Compensation Study being conducted by agreement between the City and the MEA. Therefore, if City department heads and senior managers receive additional compensation in 1996/97, the Executive Director shall receive comparable compensation.

The following is the proposed increase to the compensation of the Executive Director:

- Additional $675 paid at $75 per month for, or in lieu of, compensation benefits beginning October 1, 1996

Prepared by: Benjamin A. Kutnick
Director of Administration

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96- 58

WHEREAS, section 3.581(h) of the Charter grants the Port Commission with the exclusive authority to set the compensation (salary and benefits) of the Executive Director; and

WHEREAS, the Port has surveyed the salaries of the executive directors of eight west coast ports; and

WHEREAS, the average salary of the eight port directors surveyed is $150,090; and

WHEREAS, the current salary of the Executive Director of the Port of San Francisco is $132,624, and

WHEREAS, the Executive Director has received salary increase once in the past four years; and therefore be it

RESOLVED, the compensation of the Executive Director shall be consistent with that received by members of the Municipal Executive Association (MEA); and be it further

RESOLVED, the Port Commission shall increase compensation for the Executive Director as set forth below:

- Additional $675 paid at $75 per month for, or in lieu of, compensation benefits beginning October 1, 1996; and be it further

RESOLVED, if MEA members receive additional compensation in 1996/97 the Executive Director shall receive comparable compensation.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary

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MEMORANDUM

June 19, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of percentage rental adjustments for Alioto's #8 and Alioto Expo restaurants at Fisherman's Wharf

DIRECTOR'S RECOMMENDATION: APPROVE PERCENTAGE RENTAL ADJUSTMENTS SET FORTH HEREIN.

BACKGROUND

The 66-year leases for Alioto's #8 restaurant (Port Lease No. L-7491, dated May 1, 1970) and for Alioto Expo Restaurant (Port Lease No. L-7495, dated May 1, 1970) (collectively, the "Subject Leases") provide for the payment of percentage rental to the Port, which is subject to review and adjustment every 25 years during the lease term. The first such 25 year anniversary date was May 1, 1995 (the "Effective Date"). Due to ongoing discussions with the tenant for the Subject Leases, Alioto Fish Co. Ltd. ("Tenant"), Port and Tenant agreed to extend the time for setting the adjustment in the rate of percentage rental. Port and Tenant also agreed that the final rental adjustment would be retroactive to the Effective Date.

The Subject Leases set forth the following three categories for percentage rental, with the percentages rates as indicated below:

Alcoholic beverages and all other items sold through the bar	6.5%
Food	5.0%
All Other Uses	6.5%

THIS PRINT COVERS CALENDAR ITEM NO. 5A

The current uses of the leased premises demised in the Subject Leases include restaurant uses, with the majority of the leased premises being utilized for full service restaurant uses. A portion of the premises demised in Lease L-7495 includes parking lot uses. The parking lot on these premises also encumbers premises demised in a separate month-to-month license (Port License No. 9545, dated May 1977), containing approximately 2,241 square feet.

Both of the Subject Leases establish a similar procedure for the review and adjustment of the percentage rental. If the rates of percentage rent for like uses in San Francisco in the vicinity of the leased premises have increased or decreased as of the adjustment date, then Port shall adjust the rates of percentage rent for the Subject Leases accordingly. If Tenant disagrees on the amount of the adjustment, then Tenant has the right to terminate the lease without liability for future rent.

In order to determine the rate of percentage rent for like uses in the vicinity of the leased premises for the Subject Leases, the Port hired a consultant to perform a survey and analysis of the rates of percentage rents charged for like uses in the vicinity of the leased premises. Port staff also had several discussions with Tenant and its consultants, and considered their comments regarding the appropriate adjustment. However, Port staff was unable to reach agreement with Tenant as to the appropriate adjustment in the percentage rental.

Port staff has concluded that the current rates for percentage rent in the vicinity of the leased premises for the Subject Leases are: seven percent (7.0%) for food and alcoholic beverages sold at restaurants providing full table service; nine percent (9.0%) for retail sales; and sixty-six percent (66.0%), after parking taxes, for parking lots. However, the Subject Leases obligate Tenant to maintain the substructure and exterior of its properties, which is normally the obligation of the landlord. A portion of Tenant's leased premises are located over water, and these maintenance obligations therefore include the seawall and pilings, which are significant obligations. Port staff concluded that the percentage rental rates for the Subject Leases should be lower than the rates in the vicinity of the leased premises because of these maintenance obligations. In addition, Port staff concluded that the parking lot on the leased premises is much smaller than other parking lots in the vicinity, and it is therefore much more inefficient to operate, with operating expenses absorbing a greater portion of the gross receipts.

STAFF RECOMMENDATION

Based upon the independent survey and analysis obtained from Port's consultant, the input provided by Tenant and its consultants, and Port's staff own consideration and review of the data available to it, Port staff recommends that the rates of percentage rent for the Subject Leases be adjusted as indicated below:

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-69

WHEREAS, The City Charter empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under the City Charter, leases granted or made by the Port Commission shall be administered exclusively by the operating forces to the Port Commission; and

WHEREAS, Port Lease Nos. L-7491 and L-7495, with Alioto Fish Co. Ltd. as tenant ("Subject Leases"), provide for adjustment in the percentage rents based on the determination that percentage rents for like uses in San Francisco in the vicinity of the leased premises have increased or decreased as of the date of the determination; and

WHEREAS, Port License No. 9545 is month-to-month; now therefore, be it

RESOLVED, that the San Francisco Port Commission determines that the rates of percentage rent for the uses of the Subject Leases in the vicinity of the lease premises demised in the Subject Leases have increased to the rates indicated in the Memorandum regarding Agenda Item 5A for the June 25, 1996 Port Commission Meeting ("Memorandum"); and be it further

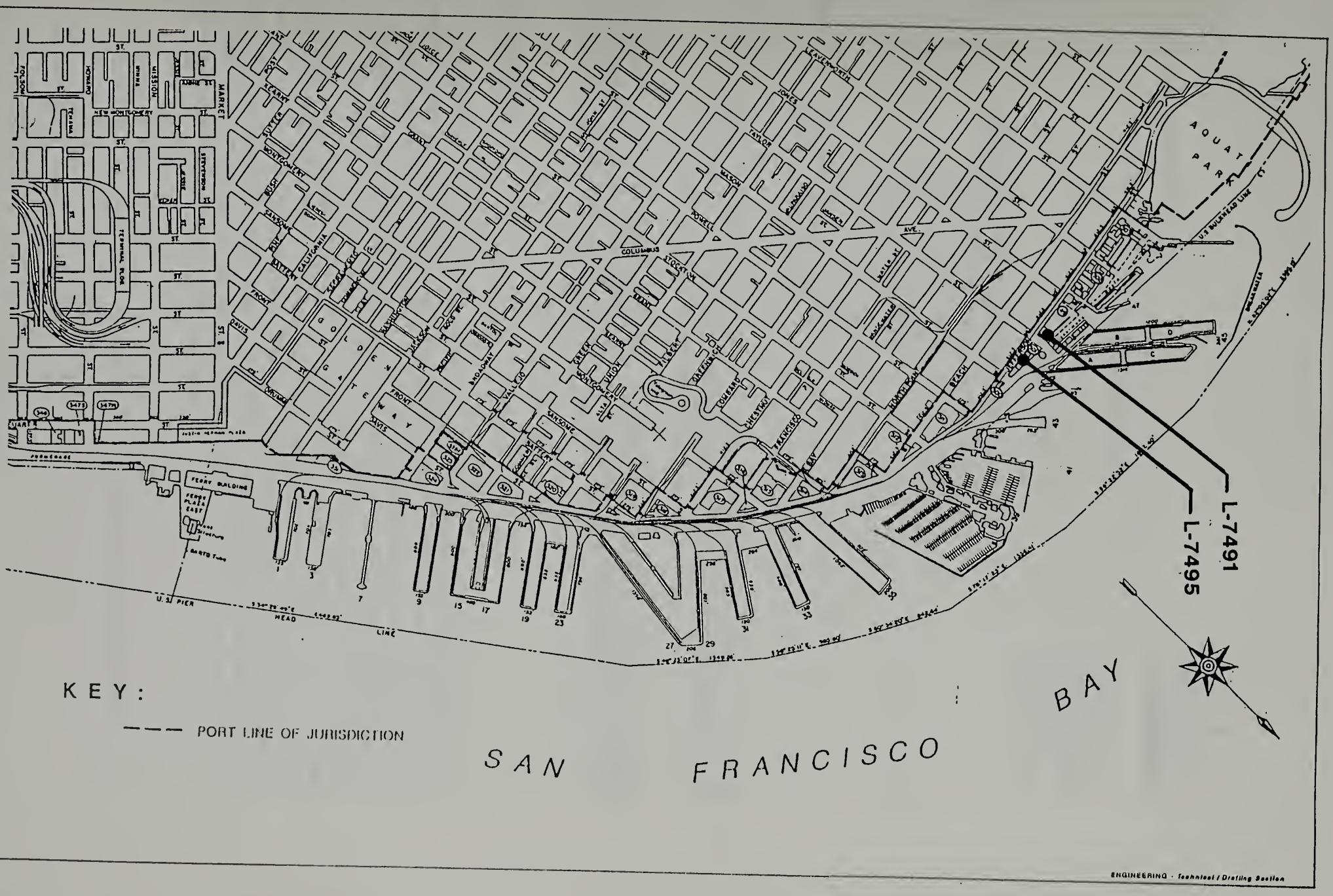
RESOLVED, that the percentage rents for the Subject Leases and Port License No. 9545 shall be adjusted as indicated in the Memorandum; and be it further

RESOLVED, that the Executive Director or his designee is hereby authorized to execute all such appropriate documentation as needed to implement this Resolution.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary

I:\WP51\ALIOTO5A.KB\ibn\June 17, 1996


L-7491
L-7495
KEY:
PORT LINE OF JURISDICTION
SAN FRANCISCO BAY
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MEMORANDUM

June 17, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Lease with Breda Transportation, Inc. at Transit Shed D, Pier 80, (at foot of Cesar Chavez Blvd.); and Approval of Co-Termination of Existing Lease No. L-11996 with Breda Transportation, Inc.

DIRECTOR'S RECOMMENDATION: APPROVE LEASE WITH BREDA TRANSPORTATION, INC. AND APPROVE CO-TERMINATION OF EXISTING LEASE NO. L-11996 WITH BREDA TRANSPORTATION, INC.

BACKGROUND

Breda Transportation, Inc. (Breda) is a U. S. subsidiary of Breda Costruzione Ferroviare, S.A., the manufacturers of the San Francisco Municipal Railroad's (MUNI) new light rail vehicle (LRV). Breda currently manufactures LRV cars in 82,812 square feet located at Transit Shed D at Pier 80 pursuant to a lease approved by the Port Commission on January 24, 1995 (Resolution No. 95-5). Because of new orders from MUNI and a large order from the City of Los Angeles, Breda requires a major expansion of their San Francisco LRV assembly facility. To accommodate this expansion, Breda proposes to terminate its existing lease with the Port (Lease No. L-11996) and enter into a new lease for all of Transit Shed D. The temporary closure of the Pier 80 facility will permit this interim use in Transit Shed D and the generation of additional revenue for the Port of San Francisco without preventing the immediate or future use of the Pier 80 facility for container cargo handling or other maritime purposes.

THIS PRINT COVERS CALENDAR ITEM NO. 5B

1. Terminate the Lease for the entire 166,097 square feet of Shed D;

2. Continue the Lease only as to the 82,810 square feet of the Parcel A Premises at the rent set forth below; or

3. Continue the Lease only as to the 83,287 square feet of the Parcel B Premises at the rent set forth below.

Should Breda on the Second Anniversary Date elect only to lease the Parcel A Premises, the rent for that portion of the premises would be $20,700.00 per month ($.25 per square foot) adjusted annually thereafter by the Consumer Price Index.

Should Breda on the Second Anniversary Date elect to lease only the Parcel B Premises the rent would be $25,820.00 per month ($.31 per square foot) adjusted annually thereafter by the CPI.

Summary:

The nature of the proposed use, the creation of over 80 new mass transit vehicle LRV assembly jobs, the proposed rental structure and the anticipated capital improvement to the Pier 80 Shed D facility represent a significant benefit to the Port, and the City and County of San Francisco.

Prepared by: Frederick D. White, Director Tenant & Maritime Services

PROPOSED LEASE

A lease has been negotiated by Port staff and Breda on the following terms and conditions:

Premises: 166,097 square feet of space in Transit Shed D (the entire Shed) consisting of two parcels;

Parcel A: 82,810 square feet currently affected by the existing lease with Breda (Lease No. L-11996);

Parcel B: 83,287 square feet of expansion area.

Term: Five years commencing March 1, 1997.

Rent: For the period from the Commencement date to the second anniversary date: $43,366.00 per month ($.26 per square foot). This represents the $18,380.00 per month rent ($.22 per square foot) for the 82,810 square feet currently affected by Lease No. L-11996 (the Parcel A Premises) and $24,986.00 per month ($.30 per square foot) for the 83,287 square feet in the Parcel B Premises expansion area.

For the period from the Second Anniversary Date to the expiration of the Term: $46,520.00 per month ($.28 per square foot). The rent during any Holdover Tenancy would be $54,000.00 per month ($.325 per square foot).

The Port Commission approved minimum rental rate for open shed space over 10,000 square feet in the Southern Waterfront is $.30 per square foot. Breda has installed $805,369.00 in tenant improvements in the space currently occupied in Shed D of which approximately 40% or $320,000.00 is of direct benefit to the Port. As a part of the new lease Breda proposes to expend an additional $800,000.00 in capital improvements without reimbursements or rent credits. Given this level of investment and the large space affected, Port staff believes that the proposed rental rates are warranted.

SPECIAL CONDITIONS:

Port's Right to Terminate:

The Port may terminate the Lease at any time upon 12 months prior notice in order to facilitate a Port program or project.

Tenant's Right to Terminate:

Prior to the second anniversary date (March 1, 1999) the Tenant may elect from the following:

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-66

WHEREAS, The City Charter empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under the City Charter, leases granted or made by the Port Commission shall be administered exclusively by the operating forces to the Port Commission; and

WHEREAS, Breda Transportation, Inc. has proposed to expand its mass transit vehicle assembly facility at Transit Shed D, at Pier 80; and

WHEREAS, staff has negotiated all the terms and conditions of a proposed lease with Breda Transportation, Inc.; on the terms and conditions outlined in the Memorandum to the Port Commission for Agenda Item 5B for the Port Commission meeting of June 25, 1996 and as more fully contained in said Lease; now therefore, be it

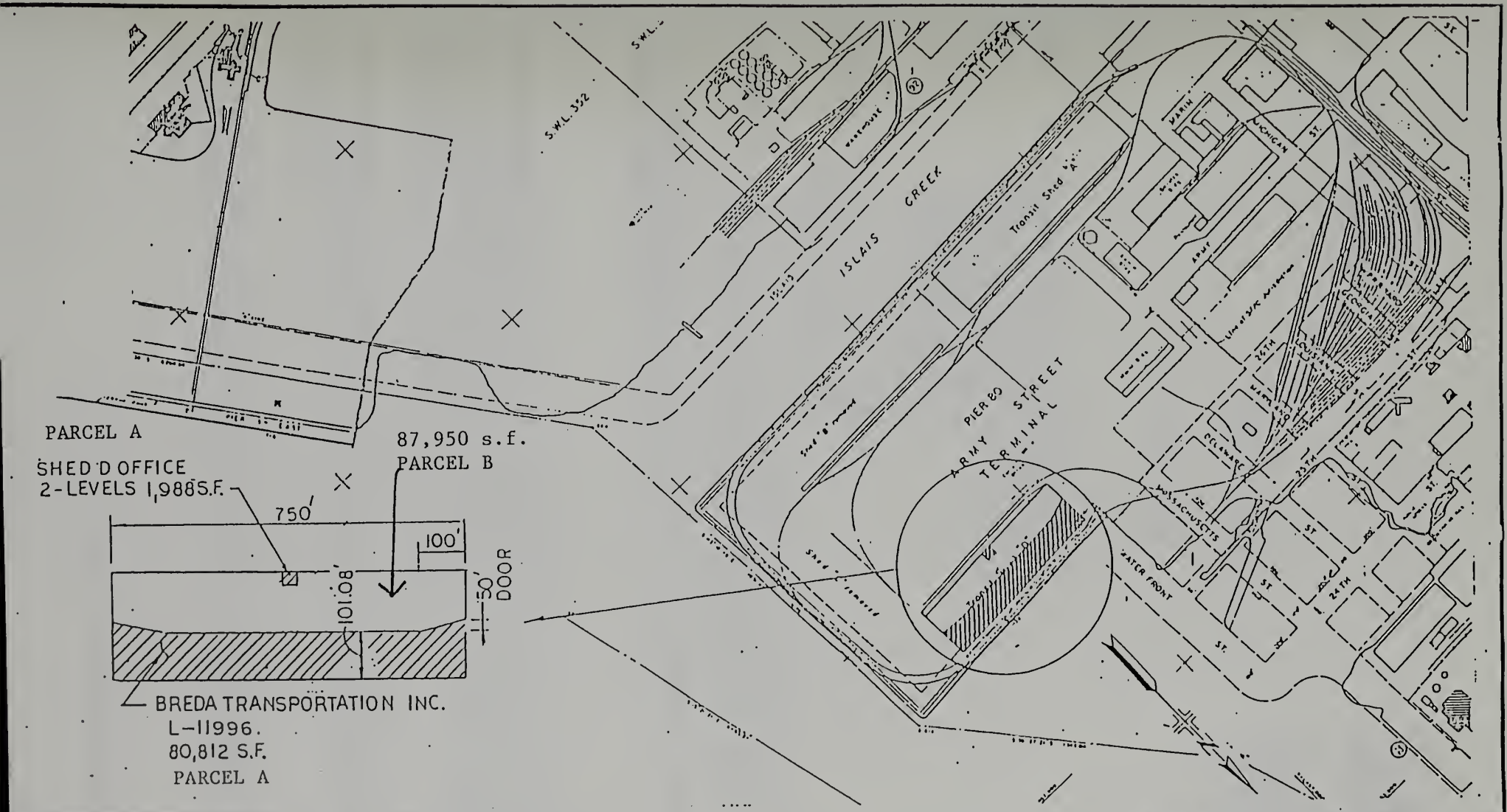
RESOLVED, that the San Francisco Port Commission hereby approves entering into Lease No. L-11996 between the Port and Breda Transportation, Inc., and authorizes the Executive Director of the Port to execute the same on behalf of the Port, in such form as is approved by the City Attorney; and be it further

RESOLVED, that the San Francisco Port Commission hereby approves the Co-Termination of Existing Lease No. L-11996 between the Port and Breda Transportation, Inc.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary

G:\WP51\AGENDAS\BREDAINC.ND\ibn\June 17, 1996



APPROVED BY SAN FRANCISCO PORT COMMISSION DATE _____ CHIEF HARBOR ENGINEER	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	BREDA TRANSPORTATION INC.	DESIGNED BY: DRAWN BY: R.C. CONTRACT NO. DRAWING NO. 1800-0-0000	CHECKED BY: DATE: 9-16-94 SCALE: SHEET NO. OF SHEETS

PORT OF SAN FRANCISCO

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Writer

MEMORANDUM

June 17, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Termination of Lease with Service Engineering Company for Ship Repair Facility at Pier 50, Terry Francois Blvd. at Mission Rock Street

DIRECTOR'S RECOMMENDATION: APPROVE LEASE TERMINATION WITH SERVICE ENGINEERING AT PIER 50

Service Engineering Company entered into a twenty year lease with the Port on May 1, 1991 for sheds B&D and wharf and yard area on the south side of Pier 50. They relocated there to larger facilities from Piers 36 and 38 after Continental Maritime closed their ship repair business at Pier 50.

Service Engineering's business, with a few exceptions was repairing U.S. Navy ships, both alongside their facilities at Pier 50, and at the various naval facilities in the Bay Area.

As a result of base closures in the Bay Area, most of the ships, in particular the aircraft carriers, have had their homeports moved to the Pacific Northwest and to San Diego.

THIS PRINT COVERS CALENDAR ITEM NO. 5C

Service Engineering's workload dropped from over 500,000 manhours in 1991 to a projected 97,000 manhours in 1996. This reduction in revenue did not provide enough revenue to cover Service Engineering's operating costs. Numerous small non-union firms bidding on ship repair jobs further exacerbated the situation necessitating lowering bid prices. Their ability to respond to all ship repair bid requests was hampered by the non-availability of a drydock. Therefore, after reducing staff, seeking to diversify into other skill areas with the ship repair workforce, exploring other uses for the facility, and initiating a lease renegotiation with the Port, and finding insufficient relief from their financial situation in these areas, Service Engineering made the decision to cease operation, close their shops, sell the shipyard equipment and supplies, and cease business in San Francisco. Their only other alternative was to file for bankruptcy.

Service Engineering's leased premises on Pier 50 included 551,000 square feet of sheds, wharves, and yard area for which they paid $44,000 per month. Port staff and Service Engineering have negotiated a termination agreement in the form attached to the Resolution.

Significant terms of the Termination Agreement include the following:

- A termination payment of three hundred thousand dollars ($300,000.00).

- Port is released from all claims and liabilities relating to the lease, and is indemnified against claims for damage by outside parties.

- Service Engineering Company will deliver the premises free of all hazardous materials.

- Port retains tenant improvements including ship service piping, fire pumps, interior shed fencing, and electrical systems including ships shore power.

Port staff believes that it will be successful in re-leasing the facilities on an interim basis at rates which will generate revenues in excess of those provided for in the agreement that is being terminated.

Prepared by: Frederick D. White, Director, Tenant and Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-59

WHEREAS, the San Francisco Charter grants to the San Francisco Port Commission the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, the Port and Service Engineering Company entered into a twenty-year lease for sheds B and D at Pier 50 on May 1, 1991 ("Lease") for the purpose of operating a ship repair business;

WHEREAS, U.S. Navy presence has declined in the Bay Area due to base closures and homeported ships moving to other ports;

WHEREAS, Service Engineering Company has depended on these Navy ships for the majority of its ship repair business;

WHEREAS, Service Engineering Company, as a result of this decline in business and the resulting financial loses, has decided to cease doing business in the Bay Area and vacate the premises at Pier 50;

WHEREAS, the Port and Service Engineering Company have reached an agreement to terminate the Lease and have agreed upon a financial settlement;

RESOLVED, that the San Francisco Port Commission hereby approves the termination of the Lease between the Port and Service Engineering Company on the terms and conditions of the negotiated settlement as outlined in the Memorandum for Agenda Item 5C for the June 25, 1996 Port Commission meeting, and authorizes the Executive Director to execute the same in substantially the form attached hereto.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary

LEASE TERMINATION AGREEMENT

This Lease Termination Agreement (the "Agreement"), is made as of _____, 1996, between the City and County of San Francisco, a municipal corporation ("City"), operating by and through the San Francisco Port Commission ("Port"), and Service Engineering Co., a California corporation ("Tenant").

The parties enter into this Agreement on the basis of the following facts, intentions and understandings:

A. Port, as Landlord, and Tenant, entered into that certain lease dated as of March 14, 1991 ("Lease") for certain property located at Pier 50, in the City and County of San Francisco, more particularly described in the Lease.

B. The Lease has a term of twenty (20) years which commenced on May 1, 1991, and expires on April 30, 2011.

C. Port and Tenant desire to terminate the Lease prior to the expiration of the Term upon all of the terms and conditions hereinafter set forth.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Port and Tenant hereby agree as follows:

AGREEMENT

1. **Recitals**. The foregoing recitals are true and correct and are incorporated herein.

2. **Effective Date**. The effective date of this Agreement (the "Effective Date") shall be June 30, 1996.

3. **Termination Payment**. In consideration of the early termination of the Lease, Tenant shall pay Port a total of Three Hundred Thousand Dollars ($300,000.00) in lawful money of the United States of America ("Termination Payment") as a condition precedent to the effectiveness of this Agreement.

4. **Termination of Lease**. As of the Effective Date, subject to the terms of this Agreement, the Lease shall be fully and finally surrendered and terminated.

5. **Release**. For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, as of the Effective Date, Tenant and its successors and assigns releases and forever discharges Port, City and their officers, directors, employees, agents and contractors, successors and assigns, from any and all claims, demands, causes of action, obligations, breaches of contract, damages, costs, and liability that is now existing or hereafter arising, known or unknown,

by virtue of any transaction or occurrence relating to the Lease. Tenant acknowledges that this release is an essential and material term of this Agreement and represents that in effecting and executing this Agreement it has received from its legal counsel advice as to its legal rights, and that such legal counsel has explained the terms of this release to Tenant. Tenant agrees that the foregoing release shall not be deemed or construed an admission of liability by Port, and Port expressly denies liability of any nature arising from or related to the subject of this release.

Tenant hereby agrees that the matters released herein are not limited to matters which are known or disclosed, and Tenant hereby specifically waives any rights that they may have under Section 1542 of the California Civil Code, which provides as follows:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have affected his settlement with the debtor.

6. **Rent/ Expenses**. Tenant shall pay all taxes, utilities, and other expenses required under the Lease through the Effective Date. Notwithstanding the foregoing, the Termination Payment is intended to include Rent payable under the Lease through the Effective Date hereof.

7. **Surrender**. As of the Effective Date, Tenant shall surrender possession of the Premises to Port in accordance with all terms and conditions of the Lease, including but not limited to Paragraphs 7, 21 and 27. Nothing herein shall limit any of Tenant's obligations whether under law or the Lease with respect to the investigation or removal of hazardous materials and such obligations shall survive the termination of this Lease.

8. **Improvements**. Notwithstanding Section 7(g) of the Lease, in addition to all improvements located on the property ("Improvements") the title to which is owned by Port under Section 7(b) of the Lease, as a material consideration for Port entering this Agreement, Tenant hereby grants to Port all Tenant's right title and interest in the trade fixtures presently located on the Premises ("Trade Fixtures"), including, but not limited to:

- Modules located on the pier aprons containing piping for ship services;
- Pumps and other plant equipment;
- Interior fences in sheds; and
- Electrical transformers, switching gear and distribution system

9. **Indemnification**. Tenant shall indemnify, defend (by counsel acceptable to Port) and hold Port harmless from and against any and all claims, liens, obligations agreements, liabilities, damages, losses, costs and expenses of any nature whatsoever, known or unknown, fixed or contingent, relating directly or indirectly to claims, under any legal theory or for any type of damage, made by parties holding or claiming any interest in the Lease through Tenant. In addition to Tenant's obligation to indemnify Port and City, Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend Port and City from any claim which actually or potentially falls

within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent. Tenant's obligation to defend shall arise at the time such claim is tendered to Tenant by Port and/or City and shall continue at all times thereafter. The foregoing indemnity obligation of Tenant shall include without limitation, indemnification from all loss and liability, including attorney's fees, court costs and all other litigation expenses. This indemnification by Tenant shall begin from the first notice that any claim or demand is or may be made. The provisions of this section shall survive the termination of the Lease.

10. **Quitclaim**. As of the Effective Date, Tenant shall quitclaim to Port all of Tenant's right, title and interest in and to the Premises, the Improvements, the Trade Fixtures, and the Lease. On or before the Effective Date hereof, Tenant shall execute, acknowledge and deliver to Port a Quitclaim Deed, substantially in the form attached hereto as Exhibit A, and a bill of sale for the improvements and trade fixtures, substantially in the form attached hereto as Exhibit B. Port may record the Quitclaim Deed on or after the Effective Date hereof.

11. **Representations and Warranties**. Tenant represent and warrants to Port that (a) the Lease is unmodified (except as provided herein) and in full force and effect and that Tenant has not prepaid Rent, (b) to the best of Tenant's knowledge, there are no uncured defects on the part of Port or Tenant, and (c) Tenant holds the entire interest of the tenant under the Lease and Tenant has made no assignments, sublease or other conveyances of all or any portion of its interest under the Lease, and (d) to the best of Tenant's knowledge, there exists no third party claim, demand, obligation, liability or cause of action arising from the Lease.

12. **Attorneys' Fees**. If either party hereto brings an action or proceeding (including any cross-complaint or counterclaim) against the other party regarding the rights and obligations under this Agreement, the prevailing party in such action or proceeding shall be entitled to recover from the other party its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "Prevailing party" within the meaning of this Section 9 shall include, without limitation, a party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other party of its claim or defense. Attorneys' fees under this Section 12 shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal. Reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

13. **Successors and Assigns**. The terms, covenants and conditions herein contained shall be binding upon and inure to the benefit of the successors and assignees of the parties hereto.

14. **Authority**. The persons executing this Agreement on behalf of the parties hereto hereby warrant their authority to do so. The undersigned parties acknowledge that they have read this

Agreement and fully understand all of its terms and execute this Agreement voluntarily and with full knowledge of its significance.

15. Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of California.

16. Entire Agreement. The parties intend that the terms of this Agreement shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous agreement. The parties further intend that this Agreement shall constitute the complete and exclusive statement of terms and that no extrinsic evidence whatsoever may be introduced in any judicial, administrative, or other legal proceeding.

17. Time of the Essence. Time is of the essence with respect to all provisions of this Agreement.

18. Counterparts. For convenience, the signatures of the parties to this Lease may be executed and acknowledged on separate pages which, when attached to this Lease, shall constitute this as one complete Lease. This Lease may be executed in any number of counterparts each of which shall be deemed to be an original and all of which shall constitute one and the same Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

PORT:

THE CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION

By_____
DENNIS P. BOUEY
EXECUTIVE DIRECTOR

APPROVED AS TO FORM:
LOUISE H. RENNE, City Attorney

By_____
Deputy City Attorney

"Tenant"
TENANT:

Service Engineering Co., a California Corporation

_____
By:
Its:

G:\nhs\seco.frm

Name: _____

Title: _____

Exhibit A
Quitclaim Deed
[to be attached]

Exhibit B
Bill of Sale
[to be attached]

PORT OF SAN FRANCISCO

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MEMORANDUM

June 25, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Consent to assignment of leases located at Pier 41 and Pier 43½ in Fisherman's Wharf from Red & White Fleet, Inc. to Blue & Gold Fleet, Limited Partnership

DIRECTOR'S RECOMMENDATION: CONSENT TO ASSIGNMENT OF LEASES.

Red & White Fleet, Inc. ("Tenant"), which is owned by Crowley Maritime Corporation, operates a ferry and excursion business pursuant to two leases with the Port for premises located at Pier 41 and Pier 43½ in Fisherman's Wharf. The term of the lease for Pier 41 (Port Lease No. L-9183) commenced on April 1, 1975 and terminates March 31, 2015. The term of the lease for Pier 43½ (Port Lease No. L-9176) commenced on August 1, 1975 and terminates July 31, 2000. These two leases (the "Leases") permit use of the Premises for vessel landing facilities, operation of ferry and excursion vessels, retail gift sales, food and beverage "take away" sales, display of historic vessels, and related uses. The Leases provide for a combined monthly minimum rental currently equaling $24,284.99, which is subject to cost of living adjustments every five years. The Leases also provide for payment of percentage rental based upon the gross receipts of Tenant's operation, and the definition of gross receipts allows for exclusion of specified revenues and expenses before calculating the percentage rental.

Recently, disputes have developed between the Port and Tenant regarding the gross revenues and receipts reported to the Port by Tenant pursuant to the Leases and the manner in which the percentage rental paid to the Port under the Leases was calculated. Other disputes have also developed between the Port and Tenant regarding Tenant's use of Port property off of the premises demised in the Leases.

THIS PRINT COVERS CALENDAR ITEM NO. 5D

In 1995, Tenant requested that the Port consent to the assignment of the Leases to Blue & Gold Fleet, Limited Partnership ("Assignee"). Assignee is an affiliate of Pier 39 Limited Partnership, which operates the Pier 39 complex on premises leased from the Port situated adjacent to the premises leased by Tenant at Pier 41.

The Port took the position that it would not consent to the assignment of the Leases to Assignee until the disputes between the Port and Tenant were satisfactorily resolved. A settlement agreement has now been reached between Tenant and Port staff. Upon the approval of this settlement by the Port Commission, Port staff recommends that the Port Commission consent to the assignment of the Leases to Assignee, subject to fulfillment of all the terms and conditions of the Settlement Agreement.

Prepared by: Frederick D. White, Director, Tenant and Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-70

WHEREAS, Charter Section 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under Charter Section 3.581(g), leases and franchises granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, Port Commission approval is being sought for the assignment of Leases Nos. L-9176 and L-9183 (collectively, the "Leases") from Red & White Fleet, Inc. (the "Assignor") to Blue & Gold Fleet Limited Partnership (the "Assignee"); and

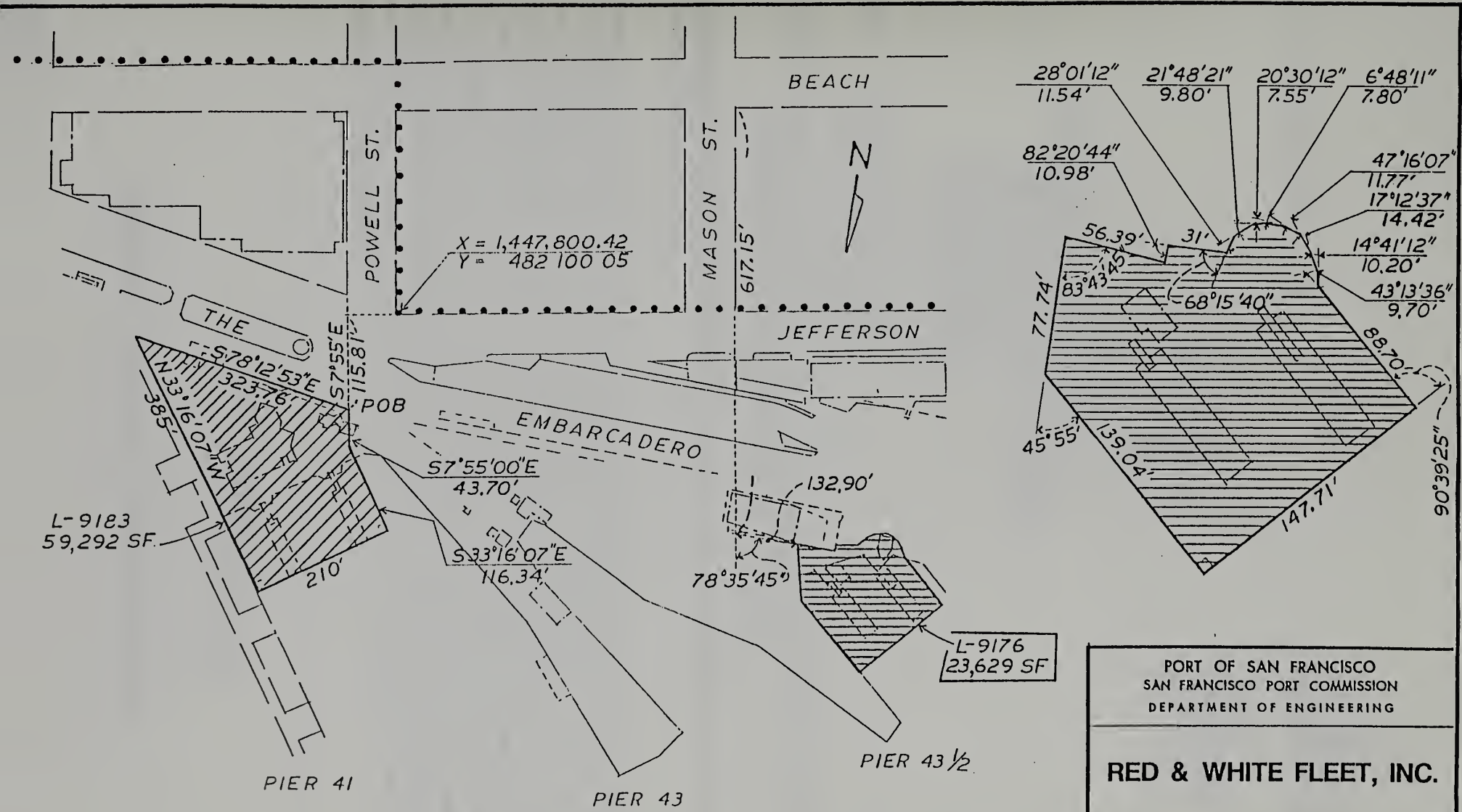
WHEREAS, the Leases provide that Assignee must obtain consent of the Port for any assignment of the Leases, which consent is not to be unreasonably withheld; now therefore, be it

RESOLVED, that the Port Commission hereby approves the assignment of the Leases from Assignor to Assignee, subject to fulfillment of all the terms and conditions of the Settlement Agreement, and hereby authorizes the Executive Director of the Port to execute documents effecting said assignment on behalf of the Port.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary

I:\WP51\PIER41&3.KB\ibn\June 12, 1996



PORT OF SAN FRANCISCO
SAN FRANCISCO PORT COMMISSION
DEPARTMENT OF ENGINEERING

RED & WHITE FLEET, INC.

APPROVED BY
SAN FRANCISCO PORT COMMISSION
DATE_____

CHIEF ENGINEER

IN CHARGE OF	CHECKED BY
MADE BY	DATE
TRACED BY	SCALE
DRAWING NO.	SHEET NO.
	OF SHEETS

PORT OF SAN FRANCISCO

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Writer

MEMORANDUM

June 19, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Construction Contract No. 2594, "Ferry Building Seismic Repair Stage II," authorization to reject all bids and readvertise for bids

DIRECTOR'S RECOMMENDATION: Authorize staff to reject all bids and readvertise for bids for Contract No. 2594

On March 26, 1996, the Commission authorized the advertisement of Contract No. 2594, "Ferry Building Seismic Repair Stage II." On June 7, 1996 three bids were received. All three of the bids are non-responsive for different reasons, including use of incorrect bid forms and failure to meet the Port's MBE/WBE goals. The subcontracting goals were set at 25% MBE and 6% WBE. During the bid period, an addendum was issued which among other things changed the items on a Revised Bid Price Schedule and explicitly instructed bidders to use the prominately marked "Revised Bid Price Schedule." These issues also increased the likelihood of a protracted protest proceeding. For these reasons, staff has concluded it is in the Port's best interest to reject all bids as prescribed by the Administrative Code and immediately readvertise for the bids.

Prepared by: Cliff Jarrard
Chief Harbor Engineer

THIS PRINT COVERS CALENDAR ITEM NO. 6A

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-67**

WHEREAS, the Commission previously authorized the advertisement of Contract No. 2594, "Ferry Building Seismic Repair Stage II;" and

WHEREAS, three bids were received on June 7, 1996; and

WHEREAS, all three bids were non-responsive; therefore be it

RESOLVED, that the Commission authorizes the rejection of all bids and further authorizes staff to readvertise the project for bids.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary

I:\wp51\agd- 2594.cj

PORT OF SAN FRANCISCO

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MEMORANDUM

June 19, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Construction Contract No. 2620, "1996/97 Dredging", authorization to advertise for bids

DIRECTOR'S RECOMMENDATION: AUTHORIZE THE EXECUTIVE DIRECTOR TO ADVERTISE CONTRACT NO. 2620 FOR COMPETITIVE BIDS

Port Operations require maintenance Dredging at several Port facilities to accommodate current shipping needs. Dredging may also be required at other Port sites to accommodate potential business opportunities. Port staff has prepared plans and specifications necessary to preform the dredging work. Dredging work includes provisions for bottom sediment disposal at Alcatraz Dump Site and for potential upland disposal as needed. Bidding is requested on a unit price basis and low bidder will be determined based on 107,900 cubic yards of dredge material. Due to limitation of funds appropriated at the time of award, the initial quantity awarded will be for 46,000 cubic yards. After the completion of a supplemental appropriation, the contract will be modified to finance the full amount of work bid. Due to immediate dredging needs, the Port cannot wait until all funds are available to advertise the project.

Prepared by: Cliff Jarrard
Chief Harbor Engineer

THIS PRINT COVERS CALENDAR ITEM NO. 6B

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-68

WHEREAS, Port operations require maintenance dredging at several Port Facilities to accommodate current shipping needs, and

WHEREAS, dredging may also be required at other Port sites to accommodate potential business opportunities, and

WHEREAS, Port staff has prepared plans and specifications necessary to preform the dredging work, and

WHEREAS, dredging work includes provisions for bottom sediment disposal at the Alcatraz Dump Site and for potential upland disposal as needed, and

WHEREAS, bidding is requested on a unit price basis and low bidder will be determined based on 107,900 cubic yards of dredge material, and

WHEREAS, the low bidder will be determined based on 107,900 cubic yards of dredge material, and

WHEREAS, due to limitation of funds at time of award, the initial quantity awarded will be for 46,000 cubic yards, and

WHEREAS, after the completion of a supplemental appropriation, the contract will be modified to finance the full amount of work bid; and

WHEREAS, due to immediate dredging needs, the Port cannot wait until all funds are available to advertise the project; now, therefore be it

RESOLVED, that the Port Commission authorize the staff to advertise for bids for Contract No. 2620, "1996/97 Dredging" and to authorize a subsequent contract modification for the full scope of work advertised once funds from a supplemental appropriation are available.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary

I:\wp51\agd-2620.cj

PORT OF SAN FRANCISCO

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Writer

MEMORANDUM

June 25, 1996

TO: MEMBERS, PORT COMMISSION
Commissioner Michael Hardeman, President
Commissioner Frankie G. Lee, Vice President
Commissioner Preston Cook
Commissioner James Herman
Commissioner Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Supporting the Public Transportation Commission, and Recommending to the City Planning Commission, the Board of Supervisors and the Mayor, approval of an amendment to the San Francisco Planning Code, Article 6, Section 603 to allow advertising associated with transit shelters on the Embarcadero.

DIRECTOR'S RECOMMENDATION: ADOPT RESOLUTION.

The Public Transportation Commission (PTC) has requested that the Port Commission adopt a resolution to the City Planning Commission and the Board of Supervisors urging their support for an amendment to the San Francisco Planning Code (Article 6, Section 603) to allow advertising panels to be placed on the new boarding platforms either under construction or planned along the Embarcadero. The revenue generated from the advertising panels will provide for the on-going maintenance of the new facilities. The Planning Code currently prohibits advertising on the Embarcadero other than ads on kiosks associated with the J.C. Decaux public toilets.

The effect of the amendment would allow advertising on the two (2) MUNI Metro Extension (MMX) high-level boarding platforms currently under construction along the southern Embarcadero and on the three (3) high-level platforms on King Street (outside of Port jurisdiction). The amendment would also allow advertising on the shelters proposed for the low-level boarding islands along the north Embarcadero from the Ferry Building to Fisherman's Wharf. These stops will serve the F-Line (Map enclosed). Advertising at MUNI shelters throughout the City is currently provided by Combined Communications Corporation ("Gannett") under an exclusive 1987 Advertising Transit Shelter Agreement with the City.

THIS COPY COVERS AGENDA ITEM 7A.

PTC and Gannett anticipate that on the high-level boarding platforms up to 8 advertising panels will be needed to cover maintenance costs. On the F-Line stops up to 2 standard panels will be needed to cover maintenance costs. Each standard panel measures 4' X 6' and is backlit for illumination of the transit shelter. The PTC staff has indicated, and Port Staff concurs, that advertising panels may not be appropriate on every stop proposed for the F-Line.

Concurrent with this Resolution, is a calendar item requesting Port Commission approval of an amendment to the Advertising Transit Shelter Agreement. The amendment allows the Port to be a party to the Agreement for all locations in the Port's jurisdiction, and gives the Port approval over location and design of shelters, as well as limiting the number of advertising panels allowed on the F-Line stops.

If the Commission endorses the attached Resolution, a recommendation will then be forwarded to the Board of Supervisors for an amendment to the Planning Code. The amendment would then be referred to the Planning Commission which will instruct its Staff to prepare an environmental evaluation of the amendment and a set of Master Plan Findings. The proposed amendment to the Agreement would not take effect until the Planning Code amendment was approved.

Prepared by: Sharon Lee Polledri,
Director of Planning and Development

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-60

WHEREAS, the Public Transportation Commission has requested support from the Port Commission for an amendment to the City Planning Code to allow general advertising associated with Transit Shelters along the Embarcadero. The Planning Code currently does not permit general advertising on the Embarcadero; and

WHEREAS, the PTC wishes to install transit shelters, in cooperation with Combined Communications Corporation ("Gannett") along the Embarcadero in support of the MUNI Metro Extension (MMX) and the F-Line; and

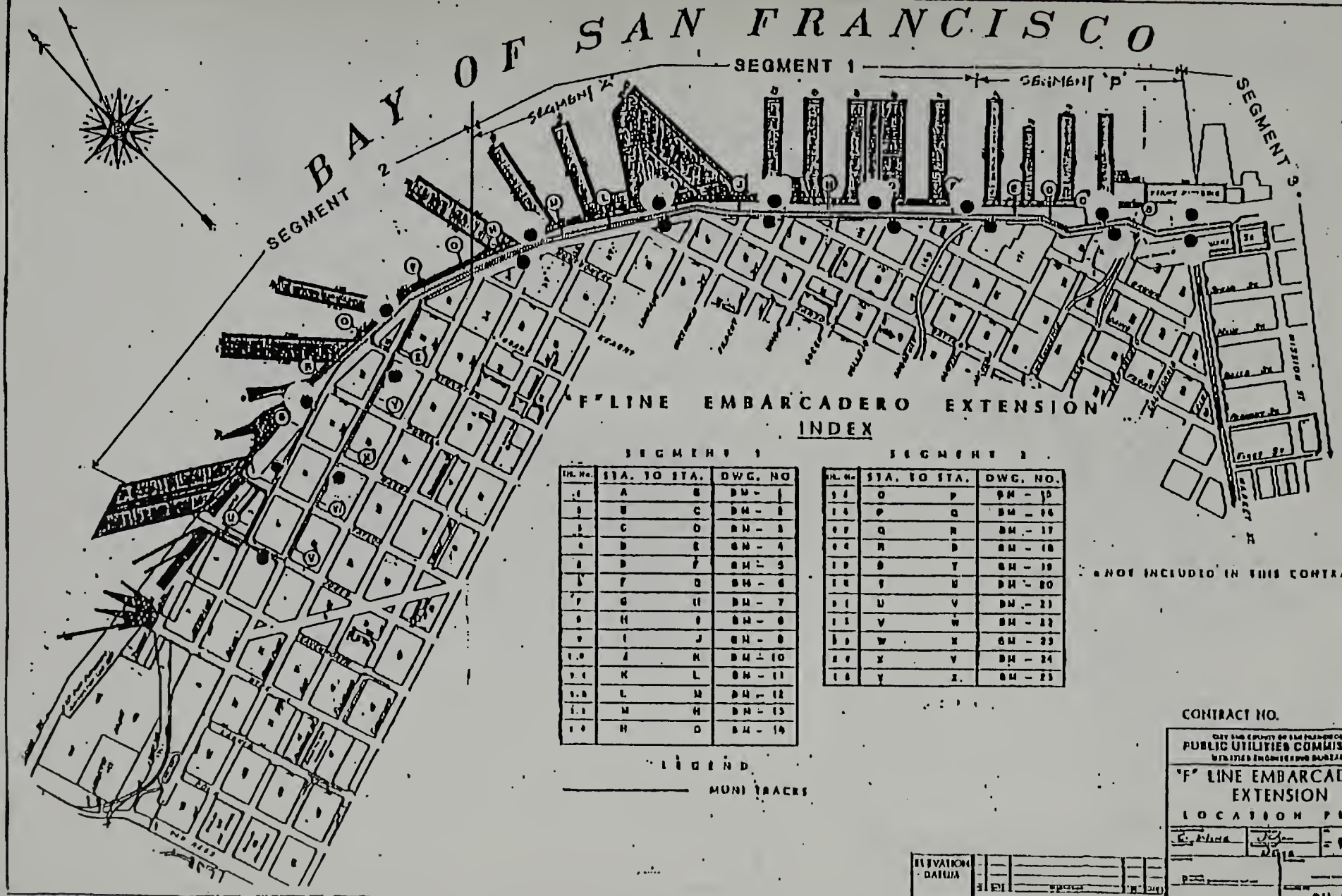
WHEREAS, the PTC, Gannett and the Port have negotiated a Third Amendment to the 1987 Advertising Transit Shelter Agreement to expand the total number of transit shelters, define maintenance responsibilities with respect to the new facilities and provide approval and enforcement rights to the Port with respect to shelters on Port property which amendment is being considered by the Port Commission concurrently herewith; now therefore be it

RESOLVED, the Port Commission supports the Public Transportation Commission, and recommends to the Planning Commission and the Board of Supervisors that the San Francisco Planning Code (Article 6, Section 603) be amended to allow the installation of general advertisement along the Embarcadero in support of the installation of transit shelters for the MMX and the F-Line, and be it further

RESOLVED, the Port Commission passes this resolution with the understanding that the PTC and Board of Supervisors will approve the Third Amendment to the Advertising Transit Shelter Agreement, specifically addressing the Port's approval over advertising panels within Port jurisdiction, the maintenance requirements associated with all facilities associated with the transit shelters, and the on-going relationship of PTC, the Port and Gannett with respect to the improvements.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary



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SEGMENT 1

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7	G H	BM - 7
8	H I	BM - 8
9	I J	BM - 9
10	J K	BM - 10
11	K L	BM - 11
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SEGMENT 2

INC. No.	STA. TO STA.	DWG. NO.
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16	P Q	BM - 16
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18	R S	BM - 18
19	S T	BM - 19
20	T U	BM - 20
21	U V	BM - 21
22	V W	BM - 22
23	W X	BM - 23
24	X Y	BM - 24
25	Y Z	BM - 25

* NOT INCLUDED IN THIS CONTRACT

LEGEND

MUNI TRACKS

CONTRACT NO.

CITY AND COUNTY OF SAN FRANCISCO
PUBLIC UTILITIES COMMISSION
BUREAU OF ENGINEERING

"F" LINE EMBARCADERO EXTENSION

LOCATION PLAN

ELEVATION DATUM

BM-0

P.10
JUL 05 '95 09:31AM -
SERVICE PLANNING MUNI.
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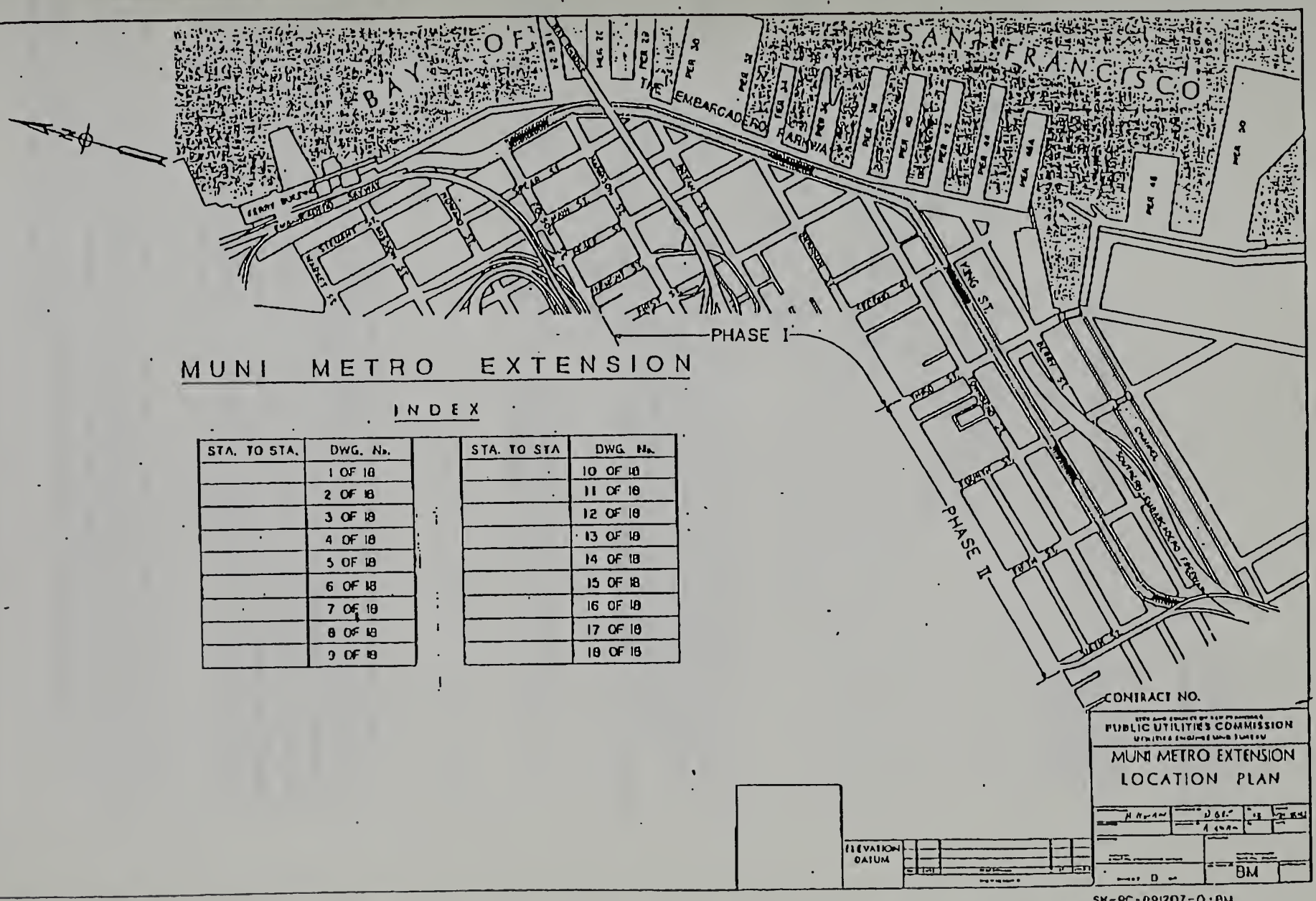

MUNI METRO EXTENSION

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CONTRACT NO.

PUBLIC UTILITIES COMMISSION

MUNI METRO EXTENSION
LOCATION PLAN

ELEVATION DATUM

BM

SK-PC-091207-0-BM

PORT OF SAN FRANCISCO

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MEMORANDUM

June 18, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

From: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Third Amendment to Advertising Transit Shelter Agreement with Combined Communications Corporation ("GANNETT"), City and County of San Francisco, by and through its Public Transportation Commission, and Port of San Francisco, regarding Public Transit Shelters located on Port property.

DIRECTOR'S RECOMMENDATION: APPROVE THIRD AMENDMENT TO ADVERTISING TRANSIT SHELTER AGREEMENT

I. BACKGROUND

On June 10, 1987, the City acting through its Public Transportation Commission ("PTC"), entered into an "Advertising Transit Shelter Agreement" ("Agreement") with Gannett Outdoor Company, Inc. of Northern California for the placement of commercial and noncommercial transit shelters throughout San Francisco. That Agreement has been subsequently amended, and assigned to Combined Communication Corporation (Gannett Shelter Poster Company) ("Gannett"). Although the Agreement covered transit shelters on Port property, the Port was not a party to the Agreement.

In 1995, the City began construction of the trackway and the boarding platforms for the Muni Metro Extension ("MMX") and the F Market and Wharfs Historic Street Car Line ("F-Line") along the Embarcadero. The City has been negotiating with Gannett for Gannett to maintain the new boarding platforms and related facilities in exchange for advertising rights on the transit shelters.

In 1995, the PTC requested the Port to approve locations of platforms for the MMX stops on the Embarcadero. On September 26, 1995, the Port Commission recommended the adoption of the conceptual design of the transit shelters and wind screens for the MMX transit facilities, and also resolved that the Port Commission and the PTC would enter into a further agreement to identify the locations and conditions of transit stop advertising panels on Port property.

In order to address transit shelter issues related to Port property, Port staff, PTC staff, and Gannett have negotiated an amendment to the Gannett Agreement, which includes the Port as a party. The Amendment sets forth the terms and conditions upon which the Port will allow the placement of advertising transit shelters on Port property, including those transit shelters on the F line and MMX line along the Embarcadero.

In addition to the Port Commission's approval, the Third Amendment must be approved by the PTC and the Board of Supervisors. In addition, the Third Amendment will not be effective until approval of an amendment to the San Francisco Planning Code by the Planning Commission and the Board of Supervisors to allow advertising along the Embarcadero. An urging resolution of the Port Commission, urging amendment of the Planning Code to allow advertising on the transit shelters along the Embarcadero MMX and F-Line, is being submitted to you concurrently with this item.

The significant provisions of the Third Amendment include the following:

- Port grants to Gannett the right to erect and maintain advertising transit shelters on Port property, subject to Port's prior approval;

- Port grants to the PTC the right to erect City owned transit shelters on the MMX line and F line platforms for as long as needed by the City for public transit purposes, subject to Port's prior approval;

- Port Commission has sole discretion to approve design and location for transit shelters on Port property, provided that the Port Commission will take into consideration the PTC's determination of those locations that provide the greatest convenience for transit patrons;

- Transit shelters located at F line boarding islands shall maintain a ratio of 2:1 of advertising panels to nonadvertising/Port promotions or public service announcements panels;

- The Port Executive Director may require the removal or relocation of the transit shelters on Port property for convenience of pedestrians and bus patrons or for reasons due to maintenance and vandalism problems;

- Gannett is responsible at its sole cost for installation and maintenance of all transit shelters approved on Port property, other than the MMX line and F line shelters, which shall be installed and paid for by the PTC (with some contribution from Gannett);

- Port has a right of first refusal as to any unsold advertising space located on the MMX boarding platforms, which may be used by Port for information and public service purposes related to Port, its tenants, or special events;

- At least twice a year, Gannett agrees to design and furnish at its sole cost at least thirty posters as a public service and information campaign, promoting the Port, its tenants and special events. Each campaign shall last at least four weeks, and a majority of the posters shall be placed on shelters located in the City. All designs shall be subject to Port's prior approval, and Port shall be consulted as to potential available display space location;

- Gannett agrees to remove promptly, upon written demand by the Port Director, with respect to advertising on property under Port jurisdiction, any advertisement deemed to be objectionable;

- No tobacco advertising shall be allowed on transit shelters Port property. Alcohol advertising on transit shelters within Port property shall not be allowed on more than 10% of commercial transit shelters within Port property;

- In the event Gannett fails to carry out any of its responsibilities under the agreement, including its maintenance obligations, Port shall have all remedies available under the Agreement, including drawing down on the security deposit, and terminating the Agreement (subject to concurrence by the PTC, which shall use its best efforts in assisting Port in having the default remedied by Gannett);

- Port is named as an additional insured and indemnified party under the Agreement.

Prepared by: Neil H. Sekhri, Assistant Port General Counsel

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-61

WHEREAS, The City Charter empowers the Port Commission with power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, The Public Transportation Department is constructing the Muni Metro Extension ("MMX") light rail project and the F-Market and Wharves historic streetcar line ("F-Line") along the waterfront; and

WHEREAS, Combined Communications Corporation ("Gannett") is a party to an Advertising Transit Shelter Agreement with the City's Public Transportation Commission ("PTC"), regarding advertising transit shelters on City property; and

WHEREAS, PTC and Gannett have agreed upon an arrangement for maintenance by Gannett of the MMX and F-Line facilities in exchange for advertising rights thereon; and

WHEREAS, Port Commission approval is being sought for the placement of the MMX and F-Line shelters, and the right to allow Gannett to advertise thereon; and

WHEREAS, Port staff, PTC staff and Gannett have negotiated an amendment to the Advertising Transit Shelter Agreement, the terms of which are set forth in the Memorandum of Agenda Item 7B for the Port Commission Meeting on June 25, 1996; and

WHEREAS, Prior to the Third Amendment taking effect, the Board of Supervisors and the Planning Commission must approve an amendment to the Planning Code Section 603(J) to allow advertising along the Embarcadero; now, therefore, be it

RESOLVED, that the Port Commission hereby approves the Third Amendment to Advertising Transit Shelter Agreement between the Port, the Public Transportation Commission, and Gannett, incorporating the business terms set forth in the Memorandum for Agenda Item 7B for the Port Commission meeting on June 25, 1996; and be it further

RESOLVED, that upon approval of both (I) the Third Amendment by the PTC and the Board of Supervisors, and (ii) amendment of the San Francisco Planning Code by the Planning Commission and the Board of Supervisors to allow advertising along the Embarcadero, the Executive Director is hereby directed to execute the Third Amendment, in such form as is approved by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary

I:\TRANSIT.AGD

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MEMORANDUM

June 25, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. James Herman
Hon. Preston Cook
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of 1996/97 Capital Plan

DIRECTOR'S RECOMMENDATION: APPROVE THE 1996/97 CAPITAL PLAN AND SUPPLEMENTAL APPROPRIATION

BACKGROUND

Staff has prepared an updated Capital Plan for the review and approval of the Port Commission. The Plan funds $2,174,456 in capital projects. This consists of $650,000 for new projects identified by staff, $1,277,124 for previously existing, but unfunded, projects and $247,332 for partially funded projects.

These projects, described on the following pages, are funded from the following two sources:

Funding Sources	Amount
Operating Fund:	
- Appropriated	$ 266,651
- Unappropriated	1,579,000
1984 Revenue Bond Fund	$ 328,805
TOTAL	$2,174,456

THIS PRINT COVERS CALENDAR ITEM NO. 8A

A Supplemental Appropriation for $1,579,000 from the unappropriated reserves in the Operating Fund is necessary to fund these projects. This Supplemental Appropriation must be approved by the Mayor and the Board of Supervisors.

The Capital Plan includes several schedules:

- Report CP-1 summarizes the capital project priorities.
- Report CP-2 provides descriptions of all capital projects.
- Report CP-3 identifies funding sources for capital projects.
- Report CP-4 allocates funding by source for capital projects.
- Report CP-5 identifies the project schedule of funded capital projects.
- Report CP-6 provides a status report of previously approved capital and facilities maintenance projects.
- Report CP-7 lists grants related to capital projects.
- Report CP-8 lists open and completed earthquake projects.

Major changes from the previous the 1995/96 Capital Plan are described below:

1. Funded Projects

A. New Projects:

Priority	Title	Amount
#3	Dredging	$250,000
#4	Pier 47A Project	$400,000
	Subtotal	$650,000

B. Existing Projects Not Previously Funded:

Priority	Title	Amount
#1	Income Property Improvements	$929,000
#2	Port Property Development Feasibility Analysis	$250,000
#5	Ferry Building Shear Wall	$98,124
	Subtotal	$1,277,124

C. Partially Funded Projects:

Priority	Title	Amount
#1	Vehicles (total project cost is $375,000)	$247,332
	Total Funded Projects	**$2,174,456**

2. Unfunded Projects

A. New Projects:

Priority	Title	Amount
#1	Mission Rock Resort Marina	$250,000
#2	Capital Equipment	$158,005
#3	Pier 45 East Apron Repair	$80,000
#4	Piers 3, 29 & 31 Parapet Flashing	$50,000
#5	Pier 45 Barge & Accessible Ramp	$200,000
#6	Fisherman's Wharf Stall Piles	$120,000
	Subtotal	$858,005

B. Existing Projects:

Priority	Title	Amount
#7	Dumpsite Closure at Pier 98	$5,000,000
#8	Guest Berth at Ferry Building Complex	$682,750
#9	Bulkhead Facade Painting and Lighting	$200,000
#10	Pier 45 West Apron Drainage Project	$1,300,000
#11	Dumpsite Closure at Pier 94	$4,415,000
#12	High Mast Lighting at Pier 94/96 - Phase I	$600,000
#13	Substructure Rehabilitation at Pier 35	$4,700,000
#14	35' Gauge Crane Track Leveling	$100,000
	Subtotal	$16,997,750
	Total Unfunded Projects	$17,855,755

3. Projects Completed

The following projects were completed since the approval of the 1995/96 Capital Plan:

Title	Amount
Clean-Up Lead Contaminated Materials	$140,000
Pier 35 Piling	$275,000
Fisherman's Wharf Improvements:	
- Tree Stand	$20,000
- Fish Processing Facilities - Rain Leaders	$20,000
- Improve wood and asphalt on West Apron	$150,000

- Exterior Concrete Cladding	$25,000
Embarcadero Roadway Drainage	$700,000
Total	$1,330,000

4. Projects Deleted

Title	Amount
Harbor Deepening Feasibility Study	$1,298,000

5. Projects Revised

A. Income Property Improvements (Priority #1 - Approved/Funded) was revised from $1,177,850 to $929,000 based upon current estimates.

B. Port Property Development Feasibility Analysis (Priority #2 - Approved/Funded Projects) was revised from $150,000 to $250,000 based upon current estimates.

C. The scale of the Hyde Street Harbor (Priority #2 - Approved/Partially Funded Projects) project was revised from $6.2 million to $4.52 million. The new cost is based on a revised project scope. Outside funding for the project has been increased from $3.0 million to $3.5 million.

Prepared by: Benjamin A. Kutnick
Director of Administration

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-56

WHEREAS, the Port has $1,845,651 in the Operating Fund and $328,805 in the 1984 Revenue Bond Fund available to fund capital projects for a total of $2,174,456; and

WHEREAS, the next six priorities in the Capital Plan are:

Income Property Improvements (Priority #1)
Port Property Development Feasibility Analysis (Priority #2)
Dredging (Priority #3)
Pier 47A Project (Priority #4)
Ferry Building Shear Wall Modifications (Priority #5); and

WHEREAS, the next priority in the Capital Plan is:

Vehicles (Priority #1 - Partially Funded); and therefore, be it

RESOLVED, that if funds becomes available from approved, funded capital projects the Executive Director is hereby authorized to allocate those funds to the approved project(s) with the next highest priority; and be it further

RESOLVED, that the Executive Director is hereby authorized to cancel or postpone any funded project due to unforeseen future events or circumstances which may arise after the approval of the 1996/97 Capital Plan and instead fund the capital project(s) with the next highest priority; and be it further

RESOLVED, that the Port Commission approves the 1996/97 Capital Plan; and be it further

RESOLVED, that staff is directed to complete a Supplemental Appropriation in the amount of $1,579,000 to obtain funding approval from the Mayor and Board of Supervisors.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary

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MEMORANDUM

June 19, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of travel to the Transportation Research Board's 21st Annual Summer Conference in Long Beach, CA in accordance with Port's Fiscal Year 1996-97 budget.

DIRECTOR'S RECOMMENDATION: APPROVE THE TRAVEL AS BUDGETED

Each year, the Transportation Research Board (TRB) sponsors a summer conference on ports, inland waterways, ferry transportation, intermodal distribution, international trade and freight transportation. This year, ten TRB committees and subcommittees have planned committee meetings as part of the conference in Long Beach, California.

A member of the Port's Planning and Development Division has been asked to participate on a panel discussing "San Francisco Bay Intermodal Ferry Issues and Emerging Technologies." While at the conference, the Port representative will also have the opportunity to attend other presentations of interest to the Port, such as renewal of the Intermodal Surface Transportation Act, technological changes in the Port operations and use of "banking" as an environmental mitigation measure.

THIS PRINT COVERS CALENDAR ITEM NO. 9A

We have budgeted the following amounts for our current fiscal year to cover this activity:

Airfare	$105.00
Hotel	$305.76
Meals	$120.00
Conference Registration	$165.00
Transportation	$100.00
TOTAL	**$795.76**

Item Prepared by: Sharon Lee Polledri
Director, Planning
and Development

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-57

WHEREAS, the Executive Director is requesting authorization for one representative to travel to the Transportation Research Board's 21st Annual Summer Conference; and

WHEREAS, the purpose of this trip is to develop additional resources on the ferry, excursion and cargo industries and attract these businesses to the Port; and

WHEREAS, the cost of this trip has been included in the Port Commission's Fiscal Year 1996-97 budget; and be it

RESOLVED, that the Port Commission hereby approves this travel request.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary

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MEMORANDUM

June 25, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Authorizing the Executive Director to Execute Amendments to Funding Agreements with Pier 39, Underwater World and the State of California Coastal Conservancy for Public Access Improvements at Pier 43.

DIRECTOR'S RECOMMENDATION: Authorize the Executive Director to Execute Amendments.

Pursuant to Port Commission Resolution No. 95-22, the Port applied for and accepted grant funding in the amount of Six Hundred Fifty Thousand Dollars ($650,000) pursuant to a grant agreement dated June 28,1995 ("Grant") from the California State Coastal Conservancy ("Conservancy") for the construction of a public access project at Pier 43. The grant was obtained with help from Pier 39/Underwater World to fund public access improvements to Pier 43, required by BCDC as a condition to the Underwater World San Francisco Bay Conservation and Development Commission (BCDC) permit (22-77).

The Grant anticipated that the public access project would be undertaken by Pier 39 or Underwater World ("Project Developer") pursuant to a separate agreement with the Port, delegating Port's performance obligations under the Grant to the Project Developer. On March 25, 1996, the Port Commission approved a Conservancy Agreement between the Port and Pier 39/Underwater World, to delegate the Port's responsibilities under the Grant to the Project Developer. As part of that agreement, Port agreed to sell to Pier 39/Underwater World, up to 125 treated wood piles, for Three Hundred Twenty Dollars ($320) per pile.

THIS PRINT COVERS CALENDAR ITEM NO. 9B

After approval of the Grant and the Conservancy Agreement, BCDC required as a condition of Pier 39's request for a design review approval, that the Pier 43 public access improvements include a wedge-shaped area of approximately 850 square feet of decking with railing located immediately west of the Pier 43. The estimated cost of the wedge improvements is Sixty Two Thousand One Hundred Forty Four Dollars ($62,144).

The funding for the additional public access improvements is proposed as follows:

1 The Coastal Conservancy will contribute an additional $25,000 in grant funds for the project.

2. The Port will discount the sale of wooden pilings for the project by $25,000.

3. Pier 39 and Underwater World will contribute all additional funding to complete the public access improvements described above.

In order to discount the sale of the wooden pilings, Port staff proposes amending Section 6 of the Conservancy Agreement to provide that the price per pile shall be One Hundred Twenty Dollars ($120) instead of Three Hundred Twenty Dollars ($320). Authorization for that amendment is set forth in Resolution No. 96-63 attached hereto.

In addition, the Coastal Conservancy has submitted an amended Grant Agreement for Port approval, which includes the wedge as part of the project. It also amends the original Grant Agreement by (I) allowing the entire grant moneys to be paid to the Port in advance, and (ii) allowing the Port to reimburse Pier/Underwater World directly for its expenses upon proof of expenditure by Underwater World and approval of the work by the Port and the Coastal Conservancy. The Coastal Conservancy will submit to the Port an additional amendment in the early part of next fiscal year (commencing July 1, 1996) to augment the Grant by an additional Twenty Five Thousand Dollars ($25,000) for the wedge, and to extend the grant possibly by up to two years. Port Commission authorization for the amendments to the Coastal Conservancy Grant are set forth in Resolution No. 96-64 attached hereto.

Prepared by: Sharon Lee Polledri
Director, Planning and Development

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-63

WHEREAS, the City Charter empowers the Port Commission with power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, pursuant to Port Commission Resolution No. 95-22, Port, with the assistance of Pier 39/Underwater World, has applied for and accepted grant funding in the amount of Six Hundred Fifty Thousand Dollars ($650,000.00) for the construction of the public access project at Pier 43, pursuant to a grant agreement dated June 28, 1995 ("Grant"), from the California State Coastal Conservancy ("Conservancy"); and

WHEREAS, pursuant to Port Commission Resolution No. 96-35, Port, Pier 39 and Underwater World entered into a Coastal Conservancy Agreement, delegating Port's performance obligations under the Grant to Project Developer, and providing for the sale of Port piles at a cost of $320.00 per pile; and

WHEREAS, after approval of the Grant and the Conservancy Agreement, BCDC required, as a condition to Pier 39's request for a BCDC Permit amendment, that the Pier 43 public access improvements include a wedge-shaped area of approximately 850 square feet of decking with railing, located immediately west of Pier 43, at an estimated cost of the wedge improvements is $62,144; and

WHEREAS, the Port has been requested by Underwater World/Pier 39 to reduce the price of pilings under the Conservancy Agreement in order to contribute $25,000 towards construction of the wedge; now therefore, be it

RESOLVED, that the Port Commission hereby approves the amendment of the Conservancy Agreement, to reduce the price of pilings sold by Port to Pier 39/Underwater World to $120.00 per pile, or such other cost as will allow the Port to contribute no more than $25,000.00 towards construction of the wedge improvements at Pier 43, and hereby authorizes the Executive Director to execute the same, in such form as approved by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

_____
Secretary

I:\RESOL.1

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-64

WHEREAS, the City Charter empowers the Port Commission with power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, pursuant to Port Commission Resolution No. 95-22, Port, with the assistance of Pier 39/Underwater World, has applied for and accepted grant funding in the amount of Six Hundred Fifty Thousand Dollars ($650,000.00) for the construction of the public access project at Pier 43, pursuant to a grant agreement dated June 28, 1995 ("Grant"), from the California State Coastal Conservancy ("Conservancy"); and

WHEREAS, after approval of the Grant and the Conservancy Agreement, BCDC required, as a condition to Pier 39's request for a BCDC Permit amendment, that the Pier 43 public access improvements include a wedge-shaped area of approximately 850 square feet of decking with railing, located immediately west of Pier 43, at an estimated cost of the wedge improvements is $62,144; and

WHEREAS, the Conservancy has submitted an amendment to the Grant, to include the wedge as part of the project, and has adjusted the procedures for payment of the grant funds as more particularly described in the Memorandum of Agenda Item 7A for the Port Commission Meeting on June 25, 1996; now therefore, be it

RESOLVED that the Port Commission hereby approves the proposed Amendment to the Grant, to include construction of the wedge, and to allow for payment of the grant funds to the Port in advance, and hereby authorizes the Executive Director to execute the same, in such form as approved by the City Attorney; and be it further

RESOLVED, that the Executive Director is authorized to execute such other minor amendments to the Grant as requested by the Conservancy, including amendments renewing the term of the Grant for up to two (2) years, and authorizing the Port to accept and expend $25,000.00 for construction of the wedge improvements to Pier 43.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996

_____
Secretary

I:\RESOL.2

PORT OF SAN FRANCISCO

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MEMORANDUM

June 18, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James R. Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Authorization for the Executive Director to apply for and accept $1,487,500 in Interstate Transfer Concept Program Funds (Title 23) from the U.S. Department of Transportation; and to apply for a reprogramming of $408,461 in existing Proposition 116 Bond funds awarded to the Port for the Downtown Ferry Terminal Project; and to apply for and accept $700,000 in additional funds from the California Transportation Commission for construction of the South Ferry Landing Breakwater.

DIRECTOR'S RECOMMENDATION: APPROVE ATTACHED RESOLUTION

On February 28, 1995, by Resolution No. 95-15, the Port Commission authorized staff to work with the San Francisco County Transportation Authority and MTC to ensure that Federal funds originally programmed for the "Tunnel Project"could be redistributed to another Port project.

The Port retained $2.4 million in Federal funds (ISTEA) for track, rail and signalization improvements on the Peninsula Corridor mainline which originally was part of the larger "Tunnel Project." These improvements are designed to avoid conflicts between passenger and freight transit. This project was scheduled to be funded with monies available to the City and County of San Francisco from the Federal Transit Administration under the Interstate Transfer Concept Program (Title 23).

On November 8, 1995, the Port Commission approved by Resolution No. 95-98, a Cooperative Funding Agreement with the Peninsula Corridor Joint Powers Board (JPB), the owner of the right way to proceed with this project. As provided in the Cooperative

Funding Agreement, the JPB relinquished its right to $1,487,500 in Title 23 Funds awarded to the agency as Caltrans' successor which were previously earmarked for the Track Rehabilitation Project. The execution of the grants and approval of those funds is complete and the project is in construction.

Port staff proposes to use the $1,487,500 in Interstate Transfer Concept Program (Title 23) funds, administered by the U.S. Department of Transportation, to fund a portion of the costs for a breakwater to protect the South Ferry Terminal Landing as part of the Downtown Ferry Terminal project. The breakwater will be located south of the Ferry Building and is part of the Port's proposed Downtown Ferry Terminal Project which is currently in the final stages of environmental review and permitting. Ferry operators have expressed the need for a breakwater along the south and east edges of the project to create a protected harbor for landing ferry and excursion vessels.

The Interstate Transfer Concept Program was established in 1983 by the Federal government as a mitigation fund after the City and County of San Francisco decided not to proceed with the I-280 connector to the Bay Bridge. Funds were designated to Caltrans for use on congestion relief projects within the City and County of San Francisco. The project meets the congestion relief criteria of the Interstate Transfer Concept program because it will provide more efficient and reliable ferry operations, thereby promoting ferry use to destinations in the East and South Bay.

The JPB concurs with the designation of these funds for the breakwater and the Port will be pursuing an application with the U.S. Department of Transportation once final approval is secured from the San Francisco Transportation Authority. Port staff has advised MTC of its proposal to apply for the Title 23 Funds and will seek the concurrence of the San Francisco Transportation Authority.

To provide the required match of Federal funds for the Title 23 funds, Port staff proposes to reprogram $408,461 from Proposition 116 funds awarded for the Downtown Ferry Terminal by the California Transportation Commission (CTC). Additionally, staff is also working with the CTC staff to find an additional $700,000 from unexpended funds available to the CTC for ferry projects.

Once all necessary environmental reviews are completed for the projects, Port staff will seek authorization from the Port Commission before expenditure of construction funds.

A summary of the project's costs and proposed funding sources is attached.

Prepared by: Veronica Sanchez, Manager
Governmental Affairs

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-62

WHEREAS, By Resolutions 95-15 and 95-98, the Port Commission authorized the Executive Director and staff to pursue new funding opportunities for other Port projects with Federal funds previously earmarked for the Tunnel Project; and

WHEREAS, Pursuant to the Cooperative Funding Agreement executed between the Port of San Francisco and the Peninsula Corridor Joint Powers Board (JPB) on March 29, 1996, the Port proposes to use $1,487,500 of Interstate Transfer Program Funds (Title 23) relinquished by the JPB for construction of a breakwater for protection of the South Ferry Landing; and

WHEREAS, The Port proposes to use existing Proposition 116 bond funds awarded to the Downtown Ferry Terminal Project by the California Transportation Commission (CTC) to match the total Federal funds needed for the project; and

WHEREAS, The Port proposes to apply to the CTC for additional funds from unexpended grant funds available for ferry projects; now therefore be it

RESOLVED, The San Francisco Port Commission authorizes the Executive Director to apply for and accept $1,487,500 in Interstate Transfer Concept Program (Title 23) funds from the U.S. Department of Transportation; and to apply for a reprogramming of $408,461 in existing Proposition 116 Bond funds awarded to the Port for the Downtown Ferry Terminal Project; and to apply for and accept $700,000 in additional funds from the CTC for construction of the South Ferry Landing Breakwater. The application for these funds is subject to the review and approval of the San Francisco Transportation Authority; and be it further

RESOLVED, The Port Commission acknowledges that before any expenditure of construction funds may be allowed, all necessary environmental reviews and permits must be secured.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 25, 1996.

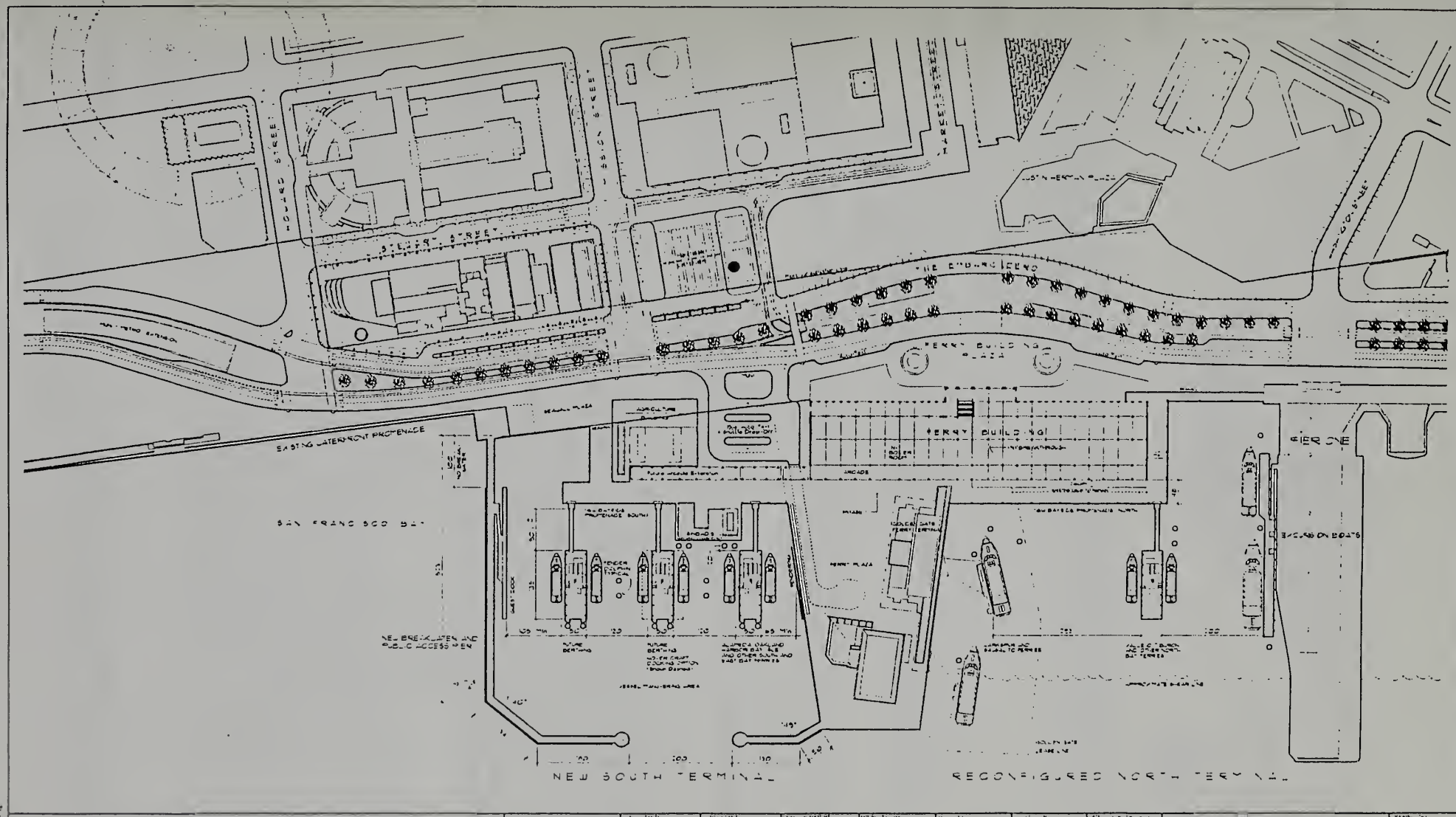
_____
SECRETARY

Downtown Ferry Terminal
Funding for the Breakwater

	FY95/96	FY96/97
Available Funds		
Interstate Transfer Concept Program Title 23 (85/15)	1,487,500	
SFTA Regional STP (88.5/11.5)		1,000,000
Obtainable Resources		
Sec. 1064 (80/20)		
FY 96-97		2,400,000
Match		
Existing Prop. 116 Funds	408,461	
Unoblig. CTC Funds	700,000	
SUBTOTAL	2,595,961	3,400,000
Total Funds	**5,995,961**	

Project Costs		
Breakwater		**5,995,961**

** Project costs includes contingency



DOWNTOWN FERRY TERMINAL
PORT OF SAN FRANCISCO

ROMA

MID EMBARCADERO ROADWAY
STUDY ALTERNATE 1

SF
P55
#3
6/25/96

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

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MINUTES OF THE MEETING
JUNE 25, 1996

1. **ROLL CALL**

The meeting was called to order by Commission President Michael Hardeman at 4:07 p.m. The following Commissioners were present: Michael Hardeman, Frankie Lee, Preston Cook, James Herman and Denise McCarthy.

2. **APPROVAL OF MINUTES** - June 11, 1996

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor. The minutes of the meeting were adopted.

The Commission Secretary announced that, with the Commission's permission, Item 3D will be heard first.

3D. Resolution awarding Commissioner Francis J. O'Neill the Order of Maritime Merit, with the Rank of Commander. (Resolution No. 96-65)

Mr. Bouey stated that it has been a pleasure to work with Mr. O'Neill in the last two-and-a-half years. The Port has come a long way with the help of the Waterfront Advisory Board, Port staff, other members of the community who have assisted the Port in numerous ways and the Port Commission which has set the policy. Mr. O'Neill has been instrumental in helping guide the way. As well, he devotes a great amount of his time unselfishly to a number of other civic causes such as the Hibernian and Rotary Clubs. Today, we honor him for his many contributions over the last few years and present to him the Order of Maritime Merit.

Commissioner Hardeman presented the plaque to Mr. O'Neill. Mr. O'Neill thanked the Commission and everyone. He noted that through the Commission's help, progress has been made. The Port is now doing financially well. The Port is still working on shipping and maritime cargoes. This year the Port has a record of 77 cruise ship calls. The Embarcadero is enticing and enjoyable. Fisherman's Wharf has never looked better. Our ship repair industry is expanding. The Herb Caen Way is one of the major promenades of the world. The Port of San Francisco is in business to do business. It has been a wonderful experience. He welcomed Denise McCarthy to the Port Commission.

ACTION: Commissioner Cook moved approval; Commissioner Herman seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

At 4:10 p.m., the Commission Secretary announced that the Commission will withdraw to Executive Session to confer with legal counsel regarding anticipated litigation matter.

At 4:45 p.m., the Commission returned from executive session and convened in public session.

3. EXECUTIVE

A. Executive Director's Report: Mr. Bouey reported the following:

1) On July 3, there will be a Party on the Pier. The Olympic Committee is hosting a concert featuring the Doobie Brothers, Jefferson Starship and Greg Kihn to raise money to send U.S. athletes to Atlanta.

2) On July 4, there will be new and expanded festivities in the waterfront. This year the fireworks will wrap all around the waterfront to the Ferry Building.

3) This Sunday, June 30, will be the Gay Lesbian Bisexual TransGender Pride Celebration and Parade.

4) Fred White, the Director of Tenant and Maritime Services, has resigned and Kirk Bennett will be acting in his position a replacement is permanently hired.

5) Staff is working with other City departments and agencies to resolve the skateboarding issue. Veronica Sanchez is working with Supervisor Yaki, the Police Department and the Rec and Park Department. One of the issues is the need for better enforcement. To assist with enforcement, the Port bought bicycles for Central Station to better patrol the Pier 7 area.

B. Presentation by the Redevelopment Agency and Port staff on the Draft Treasure Island Naval Station Reuse Plan.

Mr. Bouey stated that the Naval Facilities at Treasure Island and Yerba Buena have been slated for military closure in 1997. Prior to closure, a reuse plan must be developed to help guide the decisions regarding the disposition and transfer of the property. The Draft Reuse Plan for Treasure Island Yerba Buena has been prepared by Roma Design Group, working together with a number of City agencies. As well, the Treasure Island Citizens Reuse Committee has unanimously endorsed the plan. The Plan must now be reviewed by the Mayor, Redevelopment Commission, Planning Commission, Port Commission and the Board of Supervisors. Following that, it will undergo CEQA and NEPA review. He introduced Allison Kendall from City Planning. Ms. Kendall stated that the reuse plan is shaped by Treasure Island's unique characteristics and constraints as well as the opportunities that exist. There are severe access constraints to the island that transportation considerations are a big portion of the challenge in targeting the use. Another constraint which came to light during the course of their analysis is the seismic condition of the island, in particular,

the condition of the perimeter dike surrounding the island. They have included the reinforcement of the dike as a fundamental set of improvements that will be needed as development and redevelopment proceeds on the island. They have been cognizant of the challenges that reuse of a major piece of the City poses at this time and have emphasized the need to focus on the feasibility of the plan. They have included phasing in their plan. There are number of phases that are due to take place with residential use on Treasure Island, being the last phase, with some possibility of alternative uses. They have a great deal of flexibility in the plan, particularly regarding land use, guided from the beginning by the awareness that this is a unique piece of property. In particular, visitor oriented and recreational uses are well suited for a high visibility site with limited access with a potential for ferry access. The plan has been built around a very unique set of uses. In particular, the recreational and entertainment uses are geared at both local and regional residents as well as tourists and visitors. Another major category of use is institutional use. A job corps center will open on the island and will train about 850 young people. In addition, there are also a number of other institutional uses that are anticipated.

She pointed out that Treasure Island was originally subject to the Tide Lands Trust. The Port's Legal Counsel has been researching this issue with the State Lands Commission because of the fact that the trust may apply once the Naval Station closes and the land reverts to Civilian use. They are cognizant of the fact that may impose both land use and ownership restrictions in terms of management of the resource.

Commissioner Herman inquired about the training. Ms. Kendall replied that the details of the program have yet to be finalized but there will be a mix of job training services that will target particular sectors that are in great demand in San Francisco, including film production, landscaping and grounds maintenance, medical and dental services.

Commissioner Herman inquired about the building of residences in the island. Ms. Kendall replied that if the residences were for sale, there could be issues with respect to housing on Treasure Island and the Trust. Commissioner Herman inquired if there will be revelation as to what the housing or the residences, what the rules and conditions will be so that the Commission will have an opportunity to review. Mr. Larry Florin interjected that as far as the housing portion of the island, it is a fairly complicated issue and on the base closure law, they are required to enter into an agreement with the homeless services group. They are going to negotiate with the homeless groups to lease to them about 300 units of housing. As far as the remainder of the housing, they have preliminary opinion from State Lands Commission that they will look at existing housing units as non-conforming uses and allow them to continue to occupy them. There will be leases established through the occupancy of the housing. Mr. Florin stated that they are statutorily required to negotiate in good faith with homeless services group. In response to Commissioner Herman's inquiry about upscale housing, Mr. Florin replied that Yerba Buena Island includes historic structures. There is some uncertainty at Treasure Island of their ability to replace existing housing with upscale housing. They would look at development

opportunities at Yerba Buena Island. One of the goals of the homeless group is not to create a homeless ghetto in that area. The group is working with Redevelopment Agency to identify development opportunities so they can be integrated into a much larger development. Mr. Florin indicated that the Port Commission will be informed as decisions are made.

Ms. Van Nostern, Legal Counsel, clarified that presuming there is a trust, there can be no sale of trust property. With respect to the Commission's authority, presuming there is a trust that flows through the Burton Act, it absolutely requires it to come back to the Commission for guidance and approval. Until that issue, the City is responsible for going forward to meet all legal requirements under federal law.

Commissioner Lee commented that the two issues important to him as an engineer are the access in and out of the island and the seismic aspect of the island and offered some suggestions. Ms. Kendall reiterated that those are the focus of the plan.

Mr. Bouey thanked Ms. Kendall and Mr. Florin for making the presentation. Commissioner Hardeman also thanked the legal counsel.

C. Presentation concerning the Draft Waterfront Land Use Plan: (1) Urban Design/Public Access Guidelines and (2) Draft conforming amendments to the San Francisco General Plan and Planning Code.

Mr. Bouey emphasized that the Waterfront Plan is a result of tremendous work by the Waterfront Advisory Board (WFAB) and Port staff. The Waterfront Plan was presented to the Commission by the WFAB and subsequently very few changes were made by staff and the Commission. There were a couple of overarching goals when the plan was adopted. The first was a need for flexibility. The second was in the face of the many rules and regulations regarding Port development, it was decided to go with the most desirable uses for the waterfront, those that which would benefit the people most, and to then revisit the other agencies rules and regulations. The Port has signed MOU's with BCDC and City Planning and Port staff is also working with State Lands Commission to change those policies. Port staff is also working with Planning on conforming amendments to the Master Plan and the Planning Code. He then introduced Dan Hodapp of the Planning staff.

Mr. Hodapp introduced the urban design/public access plan for the Waterfront Plan. Similar to the WFP, the urban design/public access plan is a collaborative effort between the Port and the Dept. of City Planning and BCDC. Also involved is an eight member technical advisory committee (TAC) composed of representatives from design and interest group. The committee has been meeting once per month since January looking at design criteria and looking at where assets and opportunities exist along the waterfront. A total of three presentations has been to the BCDC Design Review Board.

He summarized the five goals that the TAC outlined: (1) public access to the waterfront from adjoining neighborhoods; (2) to create views from publicly accessible

places; (3) to provide continuous access on piers within specified planning areas; (4) to provide unique identity to each area of the waterfront and (5) provide a clear destination at the end of piers.

They are developing the urban design/public access plan by looking at the design framework. Within the framework, four main categories were outlined: (1) where the public access should occur; (2) where structures that may have historic quality and should they be preserved; (3) creating and maintaining views; and (4) providing connections to the City that make it relates to the neighborhood.

A further step down the road is to look at plan requirements for each of the areas and come up with criteria guidelines that more specifically addresses how to treat each property. Due to the great length of the waterfront, it's been divided into 12 subareas. Each area having its own unique views, public access opportunities, unique development opportunities. They have also put together a collection of waterfront open spaces. They found very few, primary types of open spaces.

Commissioner Lee inquired if ADA is considered in all the public access areas. Mr. Hodapp replied that in the plan requirements they will be looking at specific detail uses in each of the piers. As required by law, the ADA issues will have to be addressed in any type of public access.

Commissioner Cook inquired about the time line of the urban design guidelines. Mr. Hodapp replied that the intent was to have the guidelines available for Commission's adoption by the time of the final adoption of the Waterfront Plan, which is sometime in the fall. Commissioner Cook requested that the draft proposals of the urban design guidelines be distributed to the Commission so that they would have an opportunity to review before making any final decisions.

Mr. Bouey indicated that Planning staff will devise some type of milestones and a copy of the work product at each milestone will be sent to the Commission. As well, a public hearing will take place before the Commission takes action.

Commissioner Lee commented about the bulkhead beyond Pier 9, perhaps a compromise can be worked out so that the bulkhead can be preserved and a corridor will be provided at the same time. Mr. Hodapp indicated that there are a lot of very interesting bulkhead buildings identified as having potential historic value. They are weighing the historic value against the possibility of creating additional views and staff will return to the Commission with recommendations.

Commissioner Hardeman thanked Mr. Hodapp for his presentation. He also added that in addition to the presentation, posters were also provided. The public is able to see the hard work put forth by the Waterfront Advisory Board and Port staff. Mr. Bouey remarked that to the limited extent this has been presented in public meetings, the reaction has been extremely positive. The Port is going well beyond what most people thought. People have been generous in their enthusiasm for the work of the Planning staff, TAC, BCDC, Save the Bay and other agencies. Commissioner Lee

further emphasized that the Planning staff is ambassadors for the Port because they are always in contact with the public and their input is always sought. He commended the Planning staff's hard work and effort.

Commissioner Herman remarked that the group is deserving of high commendation. He has a long time concern with the southern waterfront. He appreciates how difficult it is to anticipate whether or not there will be any industrial base that flows from the waterfront and provides employment to the community, who needs employment more than a view of the water. There should be some kind of mix even if we cannot anticipate what industrial development may be available. He hopes that the Planning and the advisory board have some discussion on the issue of what may develop in the way of providing jobs. He urged that there be a discussion along the lines of what if any industrial development can take place and how to make allowance so that there is real estate available on the waterfront so is a job base is reinstituted. He clarified that he offers no critique that is negative of the work that has been done but urged that it be included in the agenda a subject matter of what can be done and that there be an allocation of space and search for industry that produces employment opportunities so that people can continue to live in this magnificent community.

Mr. Bouey offered a couple of comments and clarifications. What is presented today are urban design guidelines. What he believes Commissioner Herman is referring to are land uses. If you were to look at each area of the Waterfront Plan, the Waterfront Advisory Board and the Commission has taken great pains to outline an array of possible uses. With regard to the urban design guidelines, they defer to any maritime operations. With regard to uses, the Waterfront Plan reserves two thirds of the waterfront for maritime use. The goals are in keeping with what the Commission and the Waterfront Advisory Boards intend to accomplish. Commissioner Herman wanted to emphasize the issue because it is a critical one and has to do with the quality of life in the City.

Mr. Bouey introduced Diane Oshima, an employee of City Planning, who is work ordered to the Port to assist our Planning staff on the Waterfront Plan. Ms. Oshima stated that the primary objective of the plan is to establish rational land use policy for all Port property. One of the other key objectives of the planning process is to streamline the entitlement process to make for a more efficient, logical way of reviewing development projects proposed at the Port. One of the ways is to propose conforming amendments so that all of the various planning documents that cross the different government agencies are consistent and hopefully will minimize any conflicts that arise when individual projects come up. The other issue they are trying to achieve through this planning process is a streamlined, very integrated design, project review process that brings the Port, Planning Department, BCDC and whatever relevant City agencies with jurisdiction of Port projects into an early process to review projects rather than the sequential process that currently exists and has caused a lot of hang-ups and deterred new waterfront changes.

The proposed amendments consist of amendments to the City's General Plan and the City's Planning Code and Zoning Map. There are a number of chapters within the

City's general plan. The particular ones affected by the amendments are the Commerce and Industry element, the Recreation and Open Space element, the northeastern waterfront plan, the central waterfront plan, City Planning Code and Zoning Map. They anticipate having draft amendments to various BCDC documents later in the year. The draft amendments have been reviewed at two waterfront plan advisory board meetings and they will also make an informational presentation to the Planning Commission this Thursday. The draft amendments are available for public review. They will be scheduling a number of community meetings and public hearings over the course of the summer.

She pointed out that a number of amendments are information updates that are reflective of the fact that the City's General Plan is very old. There is a lot of information that is out of context that would have to be modernized in order for the Waterfront Plan related policies to make sense. There are other changes that update changes in the cargo industry and the trends within the cargo industry so that they resonate the policies in the Waterfront Plan. They've updated information about the development of brand new neighborhoods that didn't exist at the time those plans were first adopted such as the South Beach, Golden Gateway neighborhood, which completely transformed the northern waterfront. There are also some changes related to bookkeeping. There are some boundary changes, reflective of the fact that subsequent to the original adoption of some of the area plans. The Planning Commission adopted additional area plans for downtown, Rincon Hill, South of Market.

She highlighted some of the substantive policy changes. From the northern end at Fisherman's Wharf, the main issue is the fact that they have proposed language that addresses the Fisherman's Wharf Triangle Lot and the Pier 43-½ parking lot area. There are policies in the master plan now that call for a large plaza, open space that extends from the triangle lot out to the water with an underground garage to accommodate the parking that occurs on the surface. There is unanimous support for that concept. One of the issues they addressed through the Waterfront Plan process was that there are long term leases and a number of other impediments that get in the way to achieve the long-range vision in the foreseeable future. Given that, they have proposed some changes that would allow public access improvements to be made on an incremental basis. Their intent is to try and make the most public access opportunities until they can achieve the long range vision.

Within the northeast waterfront area, (which is from Pier 7 up to Pier 35), the existing policies in the General Plan primarily support industrial maritime uses which had been the traditional use at the time the plan was originally adopted. There has been a transition of that stretch of the waterfront that there needs to be some update of that context. The Waterfront Plan recognizes that and also recognizes the value of maintaining the piers that are in use today for the maritime related cargo activities and past policies in place to allow those to continue for as long as possible but recognizes that over the long run there is a strong possibility that some or all of them would be transitioned into a more publicly oriented set of uses that could incorporate commercial and maritime uses rather than the traditional industrial maritime uses in

the area. There are policies in the Waterfront Plan to support the mix of cruise and excursion, historic ships, recreational boating as part of the mixed uses of the redevelopment of those piers. There are policies proposed to the General Plan for the City that would also support that and represent a change from the existing policy.

Within the South Beach area, it's a little similar to the northeast waterfront area in that the existing policies for that stretch of the waterfront are primarily for industrial maritime exclusively. There are a number of ship repair companies that were operating out of the piers as well as cargo activities as of 20 years ago which do not exist today. They are proposing that would allow for mix commercial, maritime and public access uses that advisory board and the public have indicated they think it would be more appropriate across the street from the Rincon Hill and South Beach neighborhoods. Given the proposed ballpark, there proposed amendments at this point do not address the ballpark specifically. It will be upon the Giants, working with the Planning Department and the Redevelopment Agency, to make their own proposed general plan changes to accommodate the specific program uses on the waterfront site.

In the southern waterfront, the main issues would be the Pier 70 and the Western Pacific parcel. There is a portion around the Pier 70 area, in the vicinity of Illinois and 20th Street, which has a number of very valuable historic buildings the Port Commission and the Advisory Board supported as sites where they should be a development opportunity site to allow for some non-maritime uses in the area to facilitate the preservation of the old union ironwork structures in a way that it would not inhibit the ongoing operation of the ship repair and other industrial maritime activities. Similarly, for the Western Pacific parcel adjacent to Pier 80, the policies in the Master Plan now call for it to be an expansion of a cargo terminal. They are proposing changes that would allow either maritime or non-maritime development opportunities, given that the Waterfront Plan process found that site to be surplus to the maritime needs. Both the Pier 70 area and the Western Pacific site areas, the policies proposed for the Waterfront Plan as well as the conforming amendments are consistent with BCDC and MTC's regional efforts to plan for the long-term needs of the cargo industry. In the Seaport Plan, they identified Pier 70 and Western Pacific area also as being surplus to maritime use.

With regard to the Planning Code changes, right now there are a couple of special use districts. The Special Use District No. 1, also called as the Northern Waterfront Special Use District No. 1, which extends from the Fisherman's Wharf piers to Pier 24-½. In that special use district, currently there is a conditional use permit that is required for any non-maritime use proposed within that area. The Port is free to pursue any maritime uses without seeking a conditional use permit. But any non-maritime uses require conditional use review. Their proposal is to alter the boundaries of that special use district to extend from the Bay Bridge, south to China Basin but excludes the proposed ballpark site so that there will be uniform policies that apply from Fisherman's Wharf to China Basin. The policies proposed to be changed are to take out the automatic conditional use requirement and to identify as permitted uses the acceptable uses listed in the Draft Waterfront Land Use Plan. The

intent of the effort is to try to find what are the desirable and appropriate uses for the waterfront given today's condition. Their intent is to make those permitted uses being recognized as permitted uses in that area. In exchange for taking out of the automatic conditional use requirement is the establishment of a waterfront design review process. The waterfront design review process has not been defined but the objectives are to establish a process where the Planning Dept., BCDC and the Port and whatever other agencies are deemed appropriate once we go through the public review process of these amendments come together to do an early review of projects with regard to the design, the architectural style, the public access program so that all of the look and feel of new development along the waterfront get full public review but in a more efficient way that currently exists. Who the players would be or what the procedures are have not been proposed. A number of those details would come out of the public review process. That would balance the public desire to have assurance that would be quality development along the waterfront, coupled with the urban design and public access work, their intent is to provide assurance to the public that there would be an open public process and that there will be clear standard under which new development along the waterfront would occur. By going this route, by having more certainty in terms of the types of uses that can take place along the waterfront and a clear process by which a development project can proceed, we can reduce risk in projects. By reducing risk in projects, we think it positions the Port and the public for achieving better deals in terms of public access, improvements or other public amenities and new projects.

Commissioner Lee commented that he continues to support staff's position of doing the groundwork beforehand so that when the Plan is approved, all the jurisdictions in the Waterfront agree beforehand. This is the smart and right way to pursue it.

Commissioner McCarthy reiterated that Diane Oshima and staff have done an amazing job.

E. Executive Director 1996/97 Compensation; Waive Salary Increase; Approve $675.00 in Benefits (Resolution No. 96-58)

Mr. Bouey stated that the Commission has a traditional formula by which the Executive Director's salary is set. If that formula were employed today, the Executive Director would receive a significant salary increase. In fairness, the wages and benefits that have been negotiated for other City managers call for a wage freeze while a salary survey is done. Accordingly, he does not think it fair if he were to receive a salary increase at the time when his peers are not. At the same time, the City has seen fit to award City managers $675 in fringe benefits. He is waiving any request for salary increased per the prescribed formula and asked for that which is being received by his peers.

Commissioner Lee commented that Dennis is worth a lot more than the Port can afford to pay him. Commissioner Cook concurred with Commissioner Lee and added that it is unfortunate that the Commission is hindered in not allowing a full compensation package and wage increase that is much deserved by the Executive

Director who has shown in the last three years a great deal of initiative and creativity. He has absolutely turned around the financial status of this Port since taking over three years ago when the Port was in the red. We had a $3 million last year and we are going into the next year with another surplus. He believes that this is the first time in 7 or 8 years that this Port has seen back-to-back surplus. He concluded that the Executive Director is certainly worth more than $675 a year.

ACTION: Commissioner Cook moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

4. LEGISLATIVE

5. TENANT & MARITIME SERVICES

A. Approval of percentage rental adjustment for Alioto's #8 and Alioto Expo Restaurants at Fisherman's Wharf. (Resolution No. 96-69) THIS ITEM WAS PUT OVER

B. Approval of lease with Breda Transportation, Inc. at Transit Shed D, Pier 80, (at foot of Cesar Chavez Street) and approval of co-termination of existing Lease No.L-11996 with Breda Transportation Inc. (Resolution No. 96-66)

Mr. Bouey stated that the Commission previously approved a lease for 82,000 sq. ft. in Shed D at Pier 80. Breda, because they have awarded additional contracts, is asking that lease be terminated and they enter into a new lease that takes not only that parcel but an additional parcel. The first parcel would be 82,800 sq. ft., which would run about 22 cents per sq. ft. The second parcel would be 83,300 sq. ft. and it would rent 30 cents per sq. ft., providing for a joint total of 26 cents per sq. ft. in the first year. In the second year, it goes up to 28 cents. The proposed term is five years; the rent during any holdover tenancy would be 32 cents per sq.ft. Breda Corporation has made over $805,000 of improvements to the facility. Breda also proposes to expend an additional $800,000 of capital improvements without reimbursement or rent credits. The Port can terminate at any time with up to 12 months prior notice. The tenant has several elections they can make. This operation would not in any way interfere with our ability to attract cargo activity in this facility.

Mr. Edward Gable representing the Millwrights Union, requested the Commission to deny the lease at Pier 80. Breda has $160 million contract to construct over 80 cars for Muni. They are to employ 30-40 people to assemble these cars. To date, they are not working under any collective bargaining unit. He claimed that when they got an agreement with the joint venture involved in the assembly of the cars, Breda threw the company out and is continuing assembly with the company wholly owned by Breda. They are in the process of assembling their information to get a full investigation of their non-compliance with their contract with Muni.

Commissioner Herman stated that since new information has surfaced after the motion was made and seconded, he requested to have this matter heard at the meeting.

Commissioner Cook inquired if staff has any information regarding Mr. Gable's concern. Mr. Bouey responded that during the negotiations with Breda this subject did not come up. Breda has a contract with Muni. It is his understanding that the contract that Breda has with Muni requires them to pay the prevailing wage.

Commissioner Cook inquired what impact this would have, if any, to delay this for another two weeks. Mr. Bouey replied that he is not aware of any time pressure. He urged the speaker to approach Muni because there are provisions available if Breda is not paying the prevailing wage rate.

Mr. Gable stated that they are in the process of speaking with Muni and spoke to the Muni Director and awaiting for his reply and direction. In the meantime, however, this has come up before the Commission and therefore requests that this item be heard until after the investigation is done.

Commissioner Cook reiterated his position wherein we have a space available for lease to a tenant. The prevailing wage is not an issue with the Port Commission.

Muni Legal Counsel Robin Wright stated that she is unaware of any problems regarding prevailing wages or any problems Mr. Gable spoke with. She will, however, contact the project manager and advise her of the issue. She suggested Mr. Gable contact Muni and communicate his concerns to them.

Commissioner Cook inquired if this would interfere with any labor issues that Mr. Gable brought up should the Port Commission decide to adopt this lease. Ms. Wright responded that regardless of whether the lease is before the Port Commission or not, they will have a duty to resolve all the issues.

In response to Commissioner Cook's inquiry regarding bringing his concerns to Muni, Mr. Gable responded that he has brought his concerns to Muni and that Muni is in the process of rendering an investigation. Mr. Gable indicated that he has spoken with Elaine Cartwright of Muni and Arnold Baker of PUC and representatives from Breda. He is requesting for the Commission's assistance to delay action on the item until Muni's investigation has concluded.

After further discussion, Commissioner Herman asked that this item be heard at the next meeting.

ACTION: Commissioner Herman moved approval to hear this matter at the next meeting; Commissioner Lee seconded the motion. Four Commissioners were in favor; Commissioner Cook cast the dissenting vote.

C. Approval of termination of Lease with Service Engineering Company for the ship repair facility at Pier 50, Terry Francois Blvd. at Mission Rock Street. (Resolution No. 96-59)

Mr. Bouey stated that over the years, the Port has seen a diminution of ship repair service companies. SECO, because of the base closures, has slowly shrunk from hundreds of employees to one. The good news is San Francisco Drydock's parent company intends to buy the remaining assets of SECO as well as other ship repair companies. In an effort to remove the remaining obstacle toward this purchase, they need to be relieved of their lease. They currently pay $44,000 per month; under the provisions of the termination agreement, they will provide the Port a one time payment of $300,000. The Port is released from all claims and liabilities relating to the lease, and is indemnified against claims for damage by outside parties. Service Engineering Company will deliver the premises free of all hazardous materials. Port retains tenant improvements including ship service piping, fire pumps, interior shed fencing and electrical systems including ships shore power.

Commissioner McCarthy inquired if there is a method in place to make certain that the premises are actually free of hazardous materials. Mr. Bouey replied that the Port has a newly formed environmental group to take a look at the premises. Notwithstanding that, if something came out, staff will ask the tenant to remedy the situation.

ACTION: Commissioner Herman moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

D. Consent to assignment of leases at Piers 41 and 43½ in Fisherman's Wharf from Red & White Fleet, Inc. to Blue & Gold Fleet, Limited Partnership.(Resolution No.96-70)

Mr. Bouey stated that there was a disagreement between the Port and Red & White with regard to the amount of rent that should be paid for the leasehold described in the agenda package. All of the remaining issues have been resolved. Staff asks for the Commission's concurrence which would allow an assignment to Blue & Gold from Red & White pursuant to the agreement reached with Red & White.

Commissioner Hardeman clarified that the assignment of the lease at Piers 41 and 43-½ from Red & White to Blue & Gold is approved subject to the direction given to the Port Executive Director and the City Attorney in the Executive Session.

ACTION: Commissioner Herman moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

6. FACILITIES & OPERATIONS

A. Authorization to reject all bids for Construction Contract No. 2594, "Ferry Building Seismic Repair Stage II," and receive further authorization to readvertise for bids. (Resolution No. 96-67)

Mr. Bouey stated that staff has received three bids for this contract. Two of the

bidders used the wrong form and in the course of using the wrong form, left out information that was necessary to evaluate the bid. The remaining bidder failed to satisfy out minority subcontracting goals.

ACTION: Commissioner Lee moved approval; Commissioner Herman seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

B. Authorization to advertise for bids for Construction Contract No. 2620, "1996/97 Dredging." (Resolution No. 96-68)

Mr. Bouey stated that in the past, staff requested contracts for particular piers. That process, however, slowed our competitive response time. We are now estimating our needs for a year. Bidding is requested on a unit price basis. Because of the monies available, the initial quantity award will be for 46,000 cu.yds.

Commissioner Cook commented that he supports the resolution, however, it would be the last time he would support it for Pier 27. He believes it is time to negotiate with our tenant at Pier 27 to move to a different facility that would not need this dredging. The newspaper print terminal has two vessel dockings per month. We are dredging 15,900 cu.yds. to achieve these two dockings where the same vessel could be at Pier 94/96 with no additional dredging is necessary. He requested the Executive Director to discuss this issue based on (1) economics; (2) environment and (3) convince our tenant at Pier 27 to move to Pier 94/96.

Mr. Bouey stated that staff has had discussion with this tenant in the past and who indicated that he was happy where he was and does not want to move. In our continuing quest to keep as much maritime business as we can, we have absorbed the additional cost. In addition to the additional cost, there are also environmental concerns and we are more than happy to reinstitute and redouble our efforts in our discussion with the tenant.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

7. PLANNING & DEVELOPMENT

A. Support the Public Transportation Commission and recommend to the City Planning Commission, the Board of Supervisors and the Mayor approval of an amendment to the San Francisco Planning Code, Article 6, Section 603, to allow advertising associated with transit shelters on the Embarcadero. (Resolution No. 96-60)

Commissioner Hardeman requested to recuse himself from voting on these items as he represents the Gannett workers, through his union, in the negotiations.

ACTION: Commissioner Cook moved approval to recuse Commissioner

Hardeman from voting on these items; Commissioner McCarthy seconded the motion. All Commissioners were in favor; Commissioner Hardeman was recused.

Mr. Bouey stated this item was conceptually approved by the Commission last year. The Port approved the location of MMX platform stops on the Embarcadero as well as the notion that we would permit advertising for them. Today, there are two separate items; the first is a resolution urging the Board, the Mayor and the City Planning Commission to approve amendments to the Planning Code that would allow advertising panels to be placed on the new boarding platforms along the Embarcadero for both the MMX Line and for the F-Line.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. Four of the Commissioners were in favor; the resolution was adopted.

B. Approval of Third Amendment to Advertising Transit Shelter Agreement with Combined Communications Corporation (GANNETT), City and County of San Francisco, by and through its Public Transportation Commission and Port of San Francisco, regarding Public Transit Shelters located on Port property. (Resolution No. 96-61)

Mr. Bouey stated that this is a proposed agreement between the Port and Gannett through the PTC. In essence, the agreement allows Gannett the right to erect and maintain the advertising transit shelters on Port property. The Port retains the sole discretion to approve the design and location of the transit shelters. The Port requires that the transit shelters maintain a ratio of two to one on the advertising panels so the Port may use them for promotional activities. The agreement also allows the Executive Director to require the removal or relocation of transit shelters on Port property. It holds Gannett responsible for the cost of installation and maintenance of transit shelters. At least twice a year, Gannett agrees to design and furnish, at its sole cost, at least 30 posters as a public service and information campaign promoting the Port, its tenants and special events. Each campaign shall be of at least four weeks duration. Gannett agrees to remove promptly upon written demand by the Executive Director advertising we deemed objectionable. No tobacco advertising will be allowed. Alcohol advertising on the transit shelters will be allowed on no more than 10 percent of the total advertising done on our property. Lastly, the Port is named as an additional insured and indemnified party to the agreement. Gannett has been very cooperative and helpful during the entire process.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. Four of the Commissioners were in favor; the resolution was adopted.

8. ADMINISTRATION

A. Approval of the 1996/1997 Capital Plan. (Resolution No. 96-56)

Mr. Bouey stated that the capital plan is brought to the Commission annually. It was his understanding that each Commissioner was briefed individually regarding the contents to the plan and he added that Mr. Kutnick is available to answer any questions that the Commission may have.

Commissioner Herman requested, if at all feasible, that the next time there is an elaborate document such as the capital plan that it be presented the meeting before the action is taken. Mr. Kutnick replied that it will be done next year.

With regard to the pre-development feasibility, Commissioner McCarthy inquired if the Commission will have the opportunity to be involved in the decision making. Mr. Bouey replied that staff brings contracts to the Commission for their approval. Commissioner McCarthy inquired if the Commission will have the opportunity to review it prior to the contract. Mr. Bouey replied that for any item that the Commissioner is interested in, staff would be happy to meet with any Commissioner ahead of time. He then asked Sharon Polledri to contact Commissioner McCarthy or any other Commissioner prior to bringing this item to the Commission.

Commissioner McCarthy inquired if there is funding available to do the necessary environmental EIR mitigations for the Hyde Street Harbor. Mr. Bouey replied that if the Commission should decide that we need to mitigate something, we would then be required to do the mitigation. At the EIR hearing, a number of speakers raised issues. A meeting is now scheduled to meet with representatives from the swimming clubs to ascertain and help resolve their issues. As a result of that meeting, if it requires us to spend money, staff will have to find monies for that project.

Commissioner Hardeman remarked that Mr. Kutnick did an excellent job.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

9. CONSENT CALENDAR

A. Approval of travel for one Port representative to attend the Transportation Research Board's 21st Annual Summer Conference in Long Beach, CA on July 16-19, 1996, in accordance with the Port's Fiscal Year 1996/97 budget. (Resolution No. 96-57)

B. Authorizing the Executive Director to execute amendments to the funding agreements for public access improvements at Pier 43, with Pier 39/Underwater World and the California State Coastal Conservancy. (Resolution Nos. 96-63 and 96- 64)

C. Authorization for the Executive Director to apply for and accept $1,487,500 in Interstate Transfer Concept Program Funds (Title 23) from the U.S. Department of Transportation; and to apply for a reprogramming of $408,461 in existing Proposition 116 Bond funds awarded to the Port for the Downtown Ferry Terminal Project; and to apply for and accept $700,000 in additional funds from the California

Transportation Commission for construction of the South Ferry Landing Breakwater. (Resolution No. 96-62)

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

10. NEW BUSINESS / PUBLIC COMMENT

Mr. Wendell Chin, SAFER representative, stated that they have questions concerning the Port's responsibility to the community regarding safety and the quality of life at the piers and the waterfront. He stated that they have tried to meet with the executive management for the past two months but have not received any response. When they visited the Port to arrange a meeting, they ended up meeting with Ms. Macmillan who agreed to respond to their concerns within one week's time but have not heard any response since the meeting. He stressed their organization's urgency in dealing with safety, maintenance and public issues at the ferry plaza. Mr. Thomas distributed photos of the ferry plaza to the Commission.

Mr. Tyler Fosso indicated that the railings are not stout and some are missing. There are no life preservers in case someone falls into the water. He's also tripped on potholes in the area. He requested the Commission to investigate the condition of the ferry plaza.

Mr. Robert Brown indicated that he wants a better quality of life for the people. He claimed that the Port of San Francisco knows that there is a problem and would not do anything. The condition of the ferry plaza affects the quality of life of those who fish, tourists and the general public. He recommends that the Port of San Francisco spend the money to repair the area.

Mike Thomas, representative from SAFER, indicated that there is an urgency to repair the conditions at the ferry plaza and the image of San Francisco. He requested that the Commission address the safety issues immediately and assure that the Executive Director meet with SAFER within two weeks time.

While Mr. Bouey commended the group's efforts and acknowledged that the group requested a meeting with him contrary to their assertion of no response. They have met, at great length, with Roberta Jones of the Port's Environmental division. The Port does suffer from deferred maintenance. Last year's and this year's profits are used for maintenance. With regard to the broken bench, a work order is already in place to repair the bench. The Downtown Ferry Terminal project, which is 98% in design, will correct some of the other problems. The Ferry Building project should correct any of the remaining problems. He added that he shares many of the group's concerns. Unfortunately, he cannot meet with everyone but is willing to provide the appropriate personnel they can meet with.

Commissioner McCarthy inquired if the group can be more specific about their issues

and get a time line from Port staff within the next two weeks. Mr. Bouey concurred. Mr. Chin commented that they would like to meet with someone who has the authority to make decisions. Mr. Bouey added that the Port may not be able to do everything the group wants but staff will certainly listen and do what it can. He then asked Cliff Jarrard to sit in the meeting and make decisions, as appropriate. In response to Commissioner McCarthy's request for a report at the next meeting, Mr. Bouey replied that Cliff Jarrard will provide the Commission a report.

Mr. Jeffrey Leibovitz, South Beach Rincon Park Hill CAC volunteer, gave an update of their meetings. The Giants, with the stadium proposal, have not provided enough information for them to base their decisions regarding traffic in the area. They've also met with maritime businesses and they've expressed concern about their compatibility with the ballpark in the area. The Giants had also proposed a parking structure to accommodate the expansion of the South Beach park. There have been no negotiations on who will pay for all of these items. He asked that during the Port's negotiations with the Giants, they take everything into consideration. Until the reports come out, the Giants consultants should indicate the cost involved. It was also discovered that the soils underneath the expansion of the park contain lead. There is a considerable amount of toxic soil that would have to be addressed.

For the record, Mr. Michael Gallette read his letter requesting support for Festa Italiana to Commissioner Hardeman (copy attached). Mr. Bouey indicated that we are firm believers in Fisherman's Wharf; more importantly, we are firm believers in our tenants at Fisherman's Wharf. In the last two years, we have dramatically gone out of our way to demonstrate that commitment, including a significant contribution to the festival last year. Mr. Bouey stated that Mr. Gallette is fully aware of his concerns about the viability of the festival based on its performance in the last two years. He indicated that we need to put our money where it's going to do the best for not only the Port but for our tenants, including those at the Fisherman's Wharf. Mr. Bouey added that if Mr. Gallette came up with an event that the Port can support, we would be able to find funding for it. The question is whether or not we can come up with the event.

11. EXECUTIVE SESSION

At 6:55 p.m., the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following matters:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS

1) Petuya v. CCSF; San Francisco Superior Court No. 972-961; pursuant to subdivision (a) of California Government Code Section 54956.9

2) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

The City Attorney is of the opinion that based on existing facts and circumstances, discussion of existing and anticipated litigation matters in open session would prejudice the legal position of the Port. An executive session is specifically authorized under California Government Code Section 54956.9(b)(1)(c).

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

At 7:35 p.m., Commissioners Hardeman, Lee, Cook, Herman and McCarthy returned from executive session and convened in public session.

ACTION: Commissioner Lee moved approval to not disclose any information discussed in the executive session; Commissioner McCarthy seconded the motion.

The meeting was adjourned at 7:37 p.m.